Pages 2941–3018

FEDERAL REGISTER

VOLUME 25 NUMBER 68

Washington, Thursday, April 7, 1960

Contents

(*Continued on next page*)

Codification Guide

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

3 CFR

PROCLAMATIONS:

3342 2943

EXECUTIVE ORDERS:

July 2, 1910 (see F.R. Doc. 60-3166) 3007

7 CFR

970 2944

PROPOSED RULES:

951 2993
993 2996

10 CFR

140 (2 documents) 2944, 2948

PROPOSED RULES:

140 2999

14 CFR

PROPOSED RULES:

600 3003

16 CFR

13 (3 documents) 2951–2953

26 (1954) CFR

303 2953

PROPOSED RULES:

182 2973
194 2958
201 2973
216 2973
220 2973
221 2973
225 2973
240 2973
245 2973
252 2973
253 2973

32 CFR

1712 2956

33 CFR

203 2956

38 CFR

3 2957

47 CFR

PROPOSED RULES:

3 (3 documents) 3003, 3004

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Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3342

NATIONAL MARITIME DAY, 1960

By the President of the United States of America

A Proclamation

WHEREAS ships that fly the flag of the United States serve our people in trade, commerce, and defense; and

WHEREAS American shipping is pioneering in the scientific development which this year will witness the harnessing of the atom for the benefit of mankind as the world's first nuclear-powered merchant ship, the N.S. *Savannah*, sails out upon the high seas; and

WHEREAS a strong United States Merchant Marine is essential to the economy and security of the free world; and

WHEREAS the Congress, by a joint resolution approved May 20, 1933 (48 Stat. 73), designated May 22 as National Maritime Day, in commemoration of the departure from Savannah, Georgia, on May 22, 1819, of the S.S. *Savannah* on the first transoceanic voyage by any steamship, and requested the President to issue a proclamation annually calling for the observance of that day; and

WHEREAS May 22 falls on Sunday this year, it is appropriate that National Maritime Day be observed on the following Monday:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby urge the people of the United States to honor our Merchant Marine on Monday, May 23, 1960, by displaying the flag of the United States at their homes or other suitable places; and I direct the appropriate officials of the Government to arrange for the display of the flag on all Government buildings on that day.

I also request that all ships sailing under the American flag dress ship on Monday, May 23, in tribute to the American Merchant Marine.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this first day of April in the year of our Lord nineteen hundred and sixty, [SEAL] and of the Independence of the United States of America the one hundred and eighty-fourth.

DWIGHT D. EISENHOWER

By the President:

CHRISTIAN A. HERTER,
Secretary of State.

[F.R. Doc. 60-3225; Filed, Apr. 5, 1960; 2:29 p.m.]

Rules and Regulations

Title 7—AGRICULTURE

Chapter IX — Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[970.306 Amdt. 2]

PART 970—IRISH POTATOES GROWN IN MAINE

Limitation of Shipments

Findings. (a) Pursuant to Marketing Agreement No. 122 and Order No. 70 (7 CFR Part 970), regulating the handling of Irish potatoes grown in Maine, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended, 7 U.S.C. 601–674), and upon the basis of the recommendation and information submitted by the Maine Potato Marketing Committee, established pursuant to said marketing agreement and order, and upon other available information, it is hereby found that the amendment to the limitation of shipments hereinafter set forth will tend to effectuate the declared policy of the Act.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 1001–1011) in that (1) the time intervening between the date when information upon which this amendment became available and the time when this amendment must become effective in order to effectuate the declared policy of the Act is insufficient, (2) more orderly marketing in the public interest than would otherwise prevail, will be promoted by regulating the handling of Irish potatoes in the manner set forth below, on and after the effective date of this amendment, (3) compliance with this amendment will not require any special preparation on the part of handlers which cannot be completed by the effective date, (4) reasonable time is permitted under the circumstances, for such preparation, (5) information regarding the committee's recommendation has been made available to producers and handlers in the production area, and (6) this amendment relieves restrictions on the handling of potatoes grown in the production area.

Order as amended.

In § 970.306 (24 F.R. 7569, 25 F.R. 1724) in paragraph (b) subparagraph (1) delete subdivision (iii) and in lieu thereof substitute new subdivision (iii) as set forth below.

§ 970.306 **Limitation of shipments.**

* * * * *

(b) *Special purpose shipments.* * * *

(iii) *Export.* Maine Processing Grade, or better.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: April 4, 1960, to become effective April 6, 1960.

FLOYD F. HEDLUND,
Acting Director,
Fruit and Vegetable Division.

[F.R. Doc. 60–3194; Filed, April 6, 1960; 8:50 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

The following amendments to Part 140 constitute a comprehensive revision to this part.

Notice of proposed issuance of the following rules was published in the FEDERAL REGISTER on May 1, 1959 (24 F.R. 3508). A detailed statement of considerations explaining the provisions of the following amendments was published with the notice of proposed rule making at 24 F.R. 3508. Comments filed by interested persons have been given careful consideration.

Except for §§ 140.3, 140.6, 140.12, 140.15 and 140.17, the provisions of the following amendments are the same as those incorporated in the notice of proposed rule making. Section 140.6 (concerning reports) has been rewritten to clarify the obligations of an indemnified licensee following a nuclear incident and to eliminate the filing of extensive reports by a licensee until the extent of the incident and the need for such reports and records have been determined by the Commission. Minor changes, mainly of a drafting nature, have been made in §§ 140.3(j), 140.12(b)(4)(ii), 140.15(a) and 140.17(b).

Sections 140.11 and 140.12 establish the amount of financial protection to be maintained by reactor licensees. They are substantially similar to the corresponding provisions in the proposed rule published on May 1, 1959. Representatives of the Nuclear Energy Liability Insurance syndicates ("NELIA" and "MAELU") have urged that the Commission require, in some cases, the maintenance of higher levels of financial protection than are required under the following rules. Their recommendations are set forth particularly in a letter dated January 22, 1960, and the attachments thereto, from Charles J. Haugh, Vice President, The Travelers Insurance Company. This letter and the attachments are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington 25, D.C. Copies of the aforesaid letter may be obtained upon request to the Director, Division of Licensing and Regulation, U.S. Atomic Energy Commission, Washington 25, D.C.

The Commission plans to re-evaluate the provisions of §§ 140.11 and 140.12 in the light of comments received from the Nuclear Energy Liability Insurance syndicate, and comments received from interested members of the public, not later than December 31, 1960.

All interested persons who desire to submit comments for the consideration of the Commission on the proposals filed by the nuclear energy insurance syndicates and their member companies should send them to the U.S. Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation within 90 days after publication of this notice in the FEDERAL REGISTER.

Effective 30 days after publication in the FEDERAL REGISTER, 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," is amended to read as follows:

Subpart A—General Provisions

Subpart B—Provisions Applicable to Applicants and Licensees Other Than Federal Agencies and Nonprofit Educational Institutions

Subpart C—Provisions Applicable Only to Federal Agencies

Subpart D—Provisions Applicable Only to Nonprofit Educational Institutions

AUTHORITY: §§ 140.1 to 140.72 issued under sec. 161, 68 Stat. 948; 42 U.S.C. 2201. Interpret or apply sec. 4, Public Law 85-256; Public Law 85-744.

Subpart A—General Provisions

§ 140.1 Purpose.

The regulations in this part are issued to provide appropriate procedures and requirements for determining the financial protection required of licensees and for the indemnification and limitation of liability of certain licensees and other persons pursuant to section 170 of the Atomic Energy Act of 1954 (68 Stat. 919), as amended.

§ 140.2 Scope.

(a) The regulations in this part apply to each person who is an applicant for or holder of a license issued pursuant to Part 50 of this chapter to operate a nuclear reactor.

(b) (1) Subpart B of this part does not apply to any person subject to Subpart C of this part or D. Subpart C of this part applies only to persons found by the Commission to be Federal agencies. Subpart D of this part applies only to persons found by the Commission to be nonprofit educational institutions with respect to licenses and applications for licenses for the conduct of educational activities.

(2) Any applicant or licensee subject to this part may apply for a finding that such applicant or licensee is subject to the provisions of Subpart C or D of this part. The aplication should state the grounds for the requested finding. Any application for a finding pursuant to this paragraph may be included in an application for license.

§ 140.3 Definitions.

As used in this part,

(a) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919) including any amendments thereto.

(b) "Commission" means the Atomic Energy Commission or its duly authorized representatives.

(c) "Federal agency" means a Government agency such that any liability in tort based on the activities of such agency would be satisfied by funds appropriated by the Congress and paid out of the United States Treasury.

(d) "Financial protection" means the ability to respond in damages for public liability and to meet the costs of investigating and defending claims and settling suits for such damages.

(e) "Government agency" means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

(f) "Nuclear reactor" means any apparatus, other than an atomic weapon, designed or used to sustain nuclear fission in a self-supporting chain reaction.

(g) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public, or private institution, group, Government agency other than the Commission, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent, or agency of the foregoing.

(h) "Source material" means source material as defined in the regulations contained in Part 40 of this chapter.

(i) "Special nuclear material" means (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 51 of the Act, determines to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(j) "Testing reactor" means a nuclear reactor which is of a type described in § 50.21(c) of this chapter and for which an application has been filed for a license authorizing operation at:

(1) A thermal power level in excess of 10 megawatts; or

(2) A thermal power level in excess of 1 megawatt, if the reactor is to contain:

(i) A circulating loop through the core in which the applicant proposes to conduct fuel experiments; or

(ii) A liquid fuel loading; or

(iii) An experimental facility in the core in excess of 16 square inches in cross-section.

§ 140.4 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretations of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

§ 140.5 Communications.

All communications concerning the regulations in this part should be addressed to the Atomic Energy Commission, Washington 25, D.C., Attention: Division of Licensing and Regulation.

§ 140.6 Reports.

(a) In the event of bodily injury or property damage arising out of or in connection with the possession or use of the radioactive material at the location or in the course of transportation or in the event any claim is made therefor, written notice containing particulars sufficient to identify the licensee and reasonably obtainable information with respect to the time, place, and circumstances thereof, or the nature of the claim shall be furnished by or for the licensee to the Commission as promptly as practicable. The terms "the radioactive material", "the location", and "in the course of transportation" as used in this section shall have the meanings defined in the applicable indemnity agreement between the licensee and the Commission.[1]

(b) The Commission may require any person subject to this part to keep such records and furnish such reports to the Commission as the Commission deems necessary for the administration of the regulations in this part.

§ 140.7 Fees.

(a) Each licensee shall pay a fee to the Commission at the rate of $30 per year per thousand kilowatts of thermal capacity authorized in its license: *Provided*, That no fee shall be less than $100 per annum for any nuclear reactor. Such fee shall be due for the period beginning with the date on which the applicable indemnity agreement is effective and shall be paid in accordance with billing instructions received from the Commission.

(b) Where a licensee manufactures a number of nuclear reactors each having a power level not exceeding 3⅓ megawatts, for sale to others and operates them at the licensee's location temporarily prior to delivery, the licensee shall report to the Commission the maximum number of such reactors to be operated at that location at any one time. In such cases, the fee shall equal $100 multiplied by the number of reactors reported by the licensee. In the event the number of reactors operated at any one time exceed the estimate so reported, the licensee shall report the additional number of reactors to the Commission and additional charges will be made. If experience shows that less than the estimated number of reactors have been operated, appropriate adjustment in subsequent bills will be made by the Commission.

§ 140.8 Specific exemptions.

The Commission may, upon application by any interested person, grant such exemptions from the requirements of this part as it determines are authorized by law and are otherwise in the public interest.

Subpart B—Provisions Applicable Only to Applicants and Licensees Other Than Federal Agencies and Nonprofit Educational Institutions

§ 140.10 Scope.

This subpart applies to applicants for and holders of licenses issued pursuant to Part 50 of this chapter authorizing operation of nuclear reactors, except licenses for the conduct of educational activities issued to, or applied for by, persons found by the Commission to be nonprofit educational institutions and except persons found by the Commission to be Federal agencies.

§ 140.11 Amounts of financial protection for certain reactors.

(a) Each licensee is required to have and maintain financial protection

[1] A proposed form of indemnity agreement was published in the FEDERAL REGISTER on August 28, 1958 (23 F.R. 6681), for public comment. It is expected that a final form of indemnity agreement will be published at an early date as Appendix B to this part.

(1) In the amount of $1,000,000 for each nuclear reactor he is authorized to operate at a thermal power level not exceeding ten kilowatts;

(2) In the amount of $1,500,000 for each nuclear reactor he is authorized to operate at a thermal power level in excess of ten kilowatts but not in excess of one megawatt;

(3) In the amount of $2,500,000 for each nuclear reactor other than a testing reactor or a reactor licensed under section 104b of the Act which he is authorized to operate at a thermal power level exceeding one megawatt but not in excess of ten megawatts; and

(4) In the amount of $60,000,000 for each nuclear reactor he is authorized to operate and which is designed for the production of electrical energy and has a rated capacity of 100,000 electrical kilowatts or more.

(b) In any case where a person is authorized pursuant to Part 50 of this chapter to operate two or more nuclear reactors at the same location, the total financial protection required of the licensee for all such reactors is the highest amount which would otherwise be required for any one of those reactors: *Provided,* That such financial protection covers all reactors at the location.

§ 140.12 Amount of financial protection required for other reactors.

(a) Each licensee is required to have and maintain financial protection for each nuclear reactor for which the amount of financial protection is not determined in § 140.11, in an amount determined pursuant to the formula and other provisions of this section: *Provided,* That in no event shall the amount of financial protection required for any nuclear reactor under this section be less than $3,500,000 or more than $60,000,000.

(b) (1) The formula is:

x=B times P.

(2) In the formula:

x=Amount of financial protection in dollars.
B=Base amount of financial protection.
P=Population factor.

(3) The base amount of financial protection is equal to $150 times the maximum power level, expressed in thermal kilowatts, as authorized by the applicable license.

(4) The population factor (P) shall be determined as follows:

(i) *Step 1.* The area to be considered includes all minor civil divisions (as shown in the 1950 Census of Population, Bureau of the Census, or later data available from the Bureau) which are wholly or partly within a circle with the facility at its center and having a radius in miles equal to the square root of the maximum authorized power level in thermal megawatts.

(ii) *Step 2.* Identify all minor civil divisions according to the same census which are in whole or in part within the circle determined in Step 1. Determine the population of each such minor civil division (according to the same census or later data available from the Bureau of the Census). For each minor civil division, divide its population by the square of the estimated distance to the nearest mile from the reactor to the geographic center of the minor civil division: *Provided,* That no such distance shall be deemed to be less than one mile. If the sum of the quotients thus obtained for all minor civil divisions wholly or partly within the circle is 1000 or less, the population factor is 1. If the sum of these quotients is more than 1000 but not more than 3000, the population factor is 1.1. If the sum of these quotients is more than 3000 but not more than 5000, the population factor is 1.2. If the sum of these quotients is more than 5000 but not more than 7000, the population factor is 1.3. If the sum of these quotients is more than 7000 but not more than 9000, the population factor is 1.4. If the sum of these quotients is more than 9000, the population factor is 1.5.

(c) In any case where a person is authorized pursuant to Part 50 of this chapter to operate two or more nuclear reactors at the same location, the total financial protection required of the licensee for all such reactors is the highest amount which would otherwise be required for any one of those reactors: *Provided,* That such financial protection covers all reactors at the location.

(d) Except in cases where the amount of financial protection calculated under this section is a multiple of $100,000, amounts determined pursuant to this section shall be adjusted to the next highest multiple of $100,000.

§ 140.13 Amount of financial protection required of certain holders of construction permits.

Each holder of a construction permit under Part 50 of this chapter authorizing construction of a nuclear reactor, who is also the holder of a license under Part 70 of this chapter authorizing possession and storage only of special nuclear material at the site of the nuclear reactor for use as fuel in operation of the nuclear reactor after issuance of an operating license under Part 50 of this chapter, shall (during the period prior to issuance of the license authorizing operation of the reactor) have and maintain financial protection in the amount of $1,000,000. Proof of financial protection shall be filed with the Commission in the manner specified in § 140.15 prior to issuance of the license under Part 70 of this chapter.

§ 140.14 Types of financial protection.

(a) The amounts of financial protection required under this part may be furnished and maintained in the form of:

(1) An effective policy of liability insurance from private sources; or

(2) Adequate resources to provide the financial protection required by § 140.11 or § 140.12; or

(3) Such other type of financial protection as the Commission may approve; or

(4) Any combination of the foregoing.

(b) In any case where the Commission has approved proof of financial protection filed by a licensee the licensee shall not substitute one type of financial protection for another type without first obtaining the written approval of the Commission.

§ 140.15 Proof of financial protection.

(a) (1) Proof of financial protection in the case of licensees who maintain financial protection in whole or in part in the form of liability insurance shall (with respect to such insurance) consist of a copy of the liability policy (or policies) together with a certificate by the insurers issuing such policy stating that said copy is a true copy of a currently effective policy issued to the licensee. The licensee may furnish such financial protection in the form of the nuclear energy liability insurance policy set forth in § 140.75.

(2) Such proof may alternatively, consist of a copy of the declarations page of a nuclear energy liability policy in the form set forth in § 140.75 and issued to the licensee: *Provided,* That such policy form has been filed by the insurers with the Commission. The declarations page shall be accompanied by a certificate by the insurers stating that said copy is a true copy of the declarations page of a currently effective policy and identifying the policy (including endorsements) by reference to the policy form which has been filed by them with the Commission.

(3) The Commission will accept any other form of nuclear energy liability insurance as proof of financial protection, if it determines that the provisions of such insurance provide financial protection under the requirements of the Commission's regulations and the Act.

(b) Proof of financial protection in the case of licensees who maintain financial protection in whole or in part in the form specified in § 140.14(a)(2) shall consist of a showing that the licensee clearly has adequate resources to provide the financial protection required under this part. For this purpose the applicant or licensee shall file with the Commission:

(1) Annual financial statements for the three complete calendar or fiscal years preceding the date of filing, together with an opinion thereon by a certified public accountant. The financial statements shall include balance sheets, operating statements and such supporting schedules as may be needed for interpretation of the balance sheets and operating statements.

(2) If the most recent statements required under subparagraph (1) have been prepared as of a date more than 90 days prior to the date of filing, similar financial statements, prepared as of a date not more than 90 days prior to the date of filing, should be included. These statements need not be reviewed by a certified public accountant.

(c) The Commission may require any licensee to file with the Commission such additional proof of financial protection or other financial information as the Commission determines to be appropriate for the purpose of determining whether the licensee is maintaining financial protection as required under this part.

(d) Proof of financial protection shall be subject to the approval of the Commission.

(e) The licensee shall promptly notify the Commission of any material change in proof of financial protection or in

other financial information filed with the Commission under this part.

§ 140.16 Commission review of proof of financial protection.

The Commission will review proof of financial protection filed by any licensee or applicant for license. If the Commission finds that the licensee or applicant for license is maintaining financial protection in accordance with the requirements of this part, approval of the financial protection will be evidenced by incorporation of appropriate provision in the license.

§ 140.17 Special provisions applicable to licensees furnishing financial protection in whole or in part in the form of liability insurance.

In any case where a licensee undertakes to maintain financial protection in the form of liability insurance for all or part of the financial protection required by this part,

(a) The Commission may require proof that the organization or organizations which have issued such policies are legally authorized to issue them and do business in the United States and have clear ability to meet their obligations; and

(b) At least 30 days prior to the termination of any such policy, the licensee shall notify the Commission of the renewal of such policy or shall file other proof of financial protection.

§ 140.18 Special provisions applicable to licensees furnishing financial protection in whole or in part in the form of adequate resources.

In any case where a licensee undertakes to maintain financial protection in the form specified in § 140.14(a)(2) for all or part of the financial protection required by this part,

(a) The licensee shall file with the Commission at least annually, before such dates as are specified in the applicable written approval issued by the Commission pursuant to § 140.16, a balance sheet and operating statement prepared and certified by a certified public accountant in accordance with conventional accounting practices.

(b) The Commission may require such licensee to file with the Commission such additional financial information as the Commission determines to be appropriate for the purpose of determining whether the licensee is maintaining financial protection as required by this part.

§ 140.19 Failure by licensees to maintain financial protection.

In any case where the Commission finds that the financial protection maintained by a licensee is not adequate to meet the requirements of this part, the Commission may suspend or revoke the license or may issue such order with respect to licensed activities as the Commission determines to be appropriate or necessary in order to carry out the provisions of this part and of section 170 of the Act.

§ 140.20 Indemnity agreements.

(a) The Commission will execute and issue agreements of indemnity pursuant to the regulations in this part or such other regulations as may be issued by the Commission. Such agreements, as to any licensee, shall be effective on:

(1) The effective date of the license (issued pursuant to Part 50 of this chapter) authorizing the licensee to operate the nuclear reactor involved; or

(2) The effective date of the license (issued pursuant to Part 70 of this chapter) authorizing the licensee to possess and store special nuclear material at the site of the nuclear reactor for use as fuel in operation of the nuclear reactor after issuance of an operating license for the reactor,

whichever is earlier. No such agreement, however, shall be effective prior to September 26, 1957.

(b)(1) The general form of indemnity agreement to be entered into by the Commission with licensees subject to this subpart is set forth in Appendix "B".[1] The form of indemnity agreement to be entered into by the Commission with any particular licensee under this part shall contain such modifications of the form in Appendix "B" as are provided for in applicable licenses, regulations or orders of the Commission.

(2) Each licensee who has executed an indemnity agreement under this part shall enter into such agreements amending such indemnity agreement as are required by applicable licenses, regulations or orders of the Commission.

Subpart C—Provisions Applicable Only to Federal Agencies

§ 140.51 Scope.

This subpart applies only to persons found by the Commission to be Federal agencies, which have applied for or are holders of licenses issued pursuant to Part 50 of this chapter authorizing operation of nuclear reactors.

NOTE: Federal agencies are not required to furnish financial protection.

§ 140.52 Indemnity agreements.

(a) The Commission will execute agreements of indemnity with each Federal agency subject to this subpart pursuant to the regulations in this part or such other regulations as may be issued by the Commission. Each such agreement shall contain such provisions as are required by law and such additional provisions as may be incorporated therein by the Commission pursuant to regulation. Such agreements, as to any licensee, shall be effective on:

(1) The effective date of the license (issued pursuant to Part 50 of this chapter) authorizing the licensee to operate the nuclear reactor involved; or

(2) The effective date of the license (issued pursuant to Part 70 of this chapter) authorizing the licensee to possess and store special nuclear material at the site of the nuclear reactor for use as fuel in operation of the nuclear reactor after issuance of an operating license for the reactor,

whichever is earlier. No such agreement, however, shall be effective prior to September 26, 1957.

Subpart D—Provisions Applicable Only to Nonprofit Educational Institutions

§ 140.71 Scope.

This subpart applies only to applicants for and holders of licenses issued for the conduct of educational activities to persons found by the Commission to be nonprofit educational institutions, except that this subpart does not apply to Federal agencies.

NOTE: Financial protection is not required with respect to licenses issued for the conduct of educational activities to persons found by the Commission to be non-profit educational institutions.

§ 140.72 Indemnity agreements.

(a) The Commission will execute agreements of indemnity with each person subject to this subpart in accordance with this part or such other regulations as may be issued by the Commission. Each such agreement shall contain such provisions as are required by law and such additional provisions as may be incorporated therein by the Commission pursuant to regulation. Such agreements, as to any licensee, shall be effective on:

(1) The effective date of the license (issued pursuant to Part 50 of this chapter) authorizing the licensee to operate the nuclear reactor involved; or

(2) The effective date of the license (issued pursuant to Part 70 of this chapter) authorizing the licensee to possess and store special nuclear material at the site of the nuclear reactor for use as fuel in operation of the nuclear reactor after issuance of an operating license,

whichever is earlier. No such agreement shall be effective as of a date earlier than August 23, 1958, except that the Commission may upon good cause found, make such agreement effective as of a date prior to August 23, 1958. In no event may the agreement be effective as of a date prior to September 26, 1957.

Appendix "A"—Form of Insurance Policy (see F.R. Doc. 60-3090 *infra*).

Appendix "B"—Form of Indemnity Agreement (to be added later).

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Dated at Germantown, Md., this 30th day of March 1960.

For the Atomic Energy Commission.

A. R. LUEDECKE,
General Manager.

[F.R. Doc. 60-3089; Filed, Apr. 6, 1960; 8:45 a.m.]

[1] A proposed form of indemnity agreement was published in the FEDERAL REGISTER on August 28, 1958 (23 F.R. 6681), for public comment. It is expected that a final form of indemnity agreement will be published at an early date as Appendix B to this part.

PART 140—FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

On August 28, 1958 (23 F.R. 6681, 6684), and on May 1, 1959 (24 F.R. 3508), the Atomic Energy Commission published for public comment two proposed amendments to Part 140 "Financial Protection Requirements and Indemnity Agreement". One proposed amendment included a form of indemnity agreement to be entered into between the Commission and nuclear reactor licensees. Under the second proposed amendment, the Commission proposed to grant approval by rule to the furnishing of financial protection in the form of the nuclear energy liability insurance policy form then available from the NELIA and MAELU syndicates (Nuclear Energy Liability Association and Mutual Atomic Energy Liability Underwriters, respectively). Following publication of the proposed amendments, interested members of the public have submitted many helpful comments and suggestions. The comments and suggestions received have been taken into consideration by the Commission in the adoption of the following amendments.

The amendment set forth below approves, as proof of financial protection, the revised form of nuclear energy liability insurance policy currently available from NELIA and MAELU (§ 140.75, Appendix "A").

The revised form of nuclear energy liability insurance policy set forth in § 140.75 has been filed with and approved by a substantial number of state insurance agencies and has been issued by the syndicates to many AEC licensees in lieu of the binders previously in effect. The new insurance policy differs from the form previously published in the FEDERAL REGISTER on August 28, 1958, and May 1, 1959, primarily in the following respects:

1. The new form includes coverage of nuclear incidents occurring in transportation of nuclear materials to the reactor from any location, without regard to whether the transportation originated at a Government facility. The previous form provided coverage during transportation to the reactor only if the transportation was from a facility owned by the United States.

2. The period of prior notice to the Commission before the insurers can make a policy suspension effective has been increased from 12 hours to at least one full business day.

3. The new form excludes coverage for risks resulting from the transportation of "useful" or "commercial" isotopes. The NELIA and MAELU organizations have explained that such coverage is afforded in conventional liability policies.

4. With respect to a common occurrence, the aggregate insurance under all nuclear energy liability insurance policies issued by each syndicate has been expanded from the limit of liability of the highest applicable policy to the total pool capacity, if the facilities involved in the common occurrence have in the aggregate purchased that amount of coverage from the syndicate.

5. At hearings held before the Joint Committee on Atomic Energy on April 29, 1959 (Hearings Before the Joint Committee on Atomic Energy, "Indemnity and Reactor Safety," page 4), Commission representatives testified that, among other things, the phraseology of the common occurrence provision in the insurance policies may cover more situations than intended by the syndicates. To clarify the intent of the insurance syndicates, a statement was subsequently furnished to the Joint Committee on Atomic Energy on behalf of NELIA and MAELU (Hearings, page 42). With respect to the common occurrence provisions, the syndicates said:

> The Commission, in the statement made to the Joint Committee, has expressed doubt that the common occurrence provision in the policy (condition 4) has the meaning intended, and particularly that it may be construed, under subparagraph (a), to be applicable to bodily injury or property damage resulting from the conflation of fission products discharged from two or more reactors as a result of separate, distinct occurrences at each such reactor. The persons responsible for the policy language did not intend any such result, but, on the contrary, intended that if two reactors at different locations "blow" at or about the same time, the applicable limit of liability of each reactor's policy will be available for resulting claims, and condition 4 will not be applicable. In brief, the pools (MAELU and NELIA) intend subparagraph (a) to apply only to situations where the gradual accumulation of nuclear materials discharged or dispersed over a period of time from two or more nuclear facilities, whether in the course of their normal operation or as a result of undetected malfunction or accidental leakage of effluents. A simple illustration is the contamination of a watershed as the result of the continued operation of two or more facilities for a period of time, without the occurrence of an incident, identifiable in time, at any of the facilities.
>
> Even if the construction of subparagraph (a) of condition 4 feared by the Commission is possible, the pools could not take advantage of it because of the settled principles of law that if a provision in an insurance policy is ambiguous, the provisions must be given the meaning most favorable to the insured.
>
> It is submitted that the provisions of the Price-Anderson Act particularly the definition of "nuclear incident," and subsection (c) and (e) of section 170, require that with respect to Government indemnity any occurrence or series of occurrences to which the policy's common occurrence provision is applicable should be construed as one nuclear incident. Otherwise the Government would be liable, in such a situation, not for $500 million but for multiples thereof.

The general approval contained in the following amendment of the form of policy now offered by NELIA and MAELU should not be construed as indicating that it is the only form of nuclear energy liability insurance policy which the Commissioner will approve. The Commissioner will accept any other form of nuclear energy liability insurance policy as proof of financial protection under this part if it concludes that such other form provides adequate financial protection under the requirements of the Commission's regulations and applicable legislation.

The Commission will welcome further comments and suggestions concerning these amendments.

Effective thirty days after publication in the FEDERAL REGISTER, Part 140, Title 10 CFR, is amended by adding the following Appendix (§ 140.75).

§ 140.75 Appendix A.

NUCLEAR ENERGY LIABILITY POLICY

(FACILITY FORM)

The undersigned members of _____, hereinafter called the "companies," each for itself, severally and not jointly, and in the respective proportions hereinafter set forth, agree with the insured, named in the declarations made a part hereof, in consideration of the premium and in reliance upon the statements in the declarations and subject to the limit of liability, exclusions, conditions and other terms of this policy;

INSURING AGREEMENTS

I. *Coverage A—Bodily injury and property damage liability.* To pay on behalf of the insured:

(1) All sums which the insured shall become legally obligated to pay as damages because of bodily injury or property damage caused by the nuclear energy hazard, and the companies shall defend any suit against the insured alleging such bodily injury or property damage and seeking damages which are payable under the terms of this policy; but the companies may make such investigation, negotiation and settlement of any claim or suit as they deem expedient;

(2) Costs taxed against the insured in any such suit and interest on any judgment therein;

(3) Premiums on appeal bonds and on bonds to release attachments in any such suit, but without obligation to apply for or furnish such bonds;

(4) Reasonable expenses, other than loss of earnings, incurred by the insured at the companies' request.

Coverage B—Damage to property of an insured away from the facility. With respect to property damage caused by the nuclear energy hazard to property of an insured which is away from the facility, to pay to such insured those sums which such insured would have been legally obligated to pay as damages therefor, had such property belonged to another.

Coverage C—Subrogation—Offsite employees. With respect to bodily injury sustained by any employee of an insured and caused by the nuclear energy hazard, to pay to the workmen's compensation carrier of such insured all sums which such carrier would have been entitled to recover and retain as damages from another person or organization, had such person or organization alone been legally responsible for such bodily injury, by reason of the rights acquired by subrogation by the payment of the benefits required of such carrier under the applicable workmen's compensation or occupational disease law. An employer who is a duly qualified self-insurer under such law shall be deemed to be a workmen's compensation carrier within the meaning of this coverage. This Coverage C does not apply to bodily injury sustained by any person who is employed at and in connection with the facility. This Coverage C shall not constitute workmen's compensation insurance as required under the laws of any state.

II. *Definition of insured.* The unqualified word "insured" includes (a) the named insured and (b) any other person or organization with respect to his legal responsibility for damages because of bodily injury or

property damage caused by the nuclear energy hazard.

Subdivision (b) above does not include as an insured the United States of America or any of its agencies.

Subject to Condition 3 and the other provisions of this policy, the insurance applies separately to each insured against whom claim is made or suit is brought.

III. *Definitions.* Wherever used in this policy:

"Bodily injury" means bodily injury, sickness or disease, including death resulting therefrom, sustained by any person;

"Property damage" means physical injury to or destruction or radioactive contamination of property, and loss of use of property so injured, destroyed or contaminated, and loss of use of property while evacuated or withdrawn from use because possibly so contaminated or because of imminent danger of such contamination;

"Nuclear material" means source material, special nuclear material or byproduct material;

"Source material," "special nuclear material," and "byproduct material" have the meanings given them in the Atomic Energy Act of 1954, or in any law amendatory thereof;

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in any nuclear reactor;

"Waste" means any waste material (1) containing byproduct material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (1) or (2) thereof;

"The facility" means the facility described in the declarations and includes the location designated in Item 3 of the declarations and all property and operations at such location;

"Nuclear facility" means "the facility" as defined in any Nuclear Energy Liability Policy (Facility Form) issued by the companies or by _____.

The term "nuclear facility" also means

(1) Any nuclear reactor,

(2) Any equipment or device designed or used for (a) separating the isotopes of uranium or plutonium, (b) processing or utilizing spent fuel, or (c) handling, processing or packaging waste,

(3) Any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,

(4) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"Indemnified nuclear facility" means

(1) "The facility" as defined in any Nuclear Energy Liability Policy (Facility Form) issued by the companies or by _____,

(2) Any other nuclear facility,

if financial protection is required pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, with respect to any activities or operations conducted thereat;

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"Nuclear energy hazard" means the radioactive, toxic, explosive or other hazardous properties of nuclear material, but only if

(1) The nuclear material is at the facility or has been discharged or dispersed therefrom without intent to relinquish possession or custody thereof to any person or organization, or

(2) The nuclear material is in an insured shipment which is (a) in the course of transportation, including handling and temporary storage incidental thereto, within the territorial limits of the United States of America, its territories or possessions, Puerto Rico or the Canal Zone and (b) away from any other nuclear facility;

"Insured shipment" means a shipment of source material, special nuclear material, spent fuel or waste, herein called "material," (1) to the facility from a nuclear facility owned by the United States of America, but only if the transportation of the material is not by predetermination to be interrupted by the removal of the material from a transporting conveyance for any purpose other than the continuation of its transportation, or (2) from the facility to any other location except an indemnified nuclear facility, but only until the material is removed from a transporting conveyance for any purpose other than the continuation of its transportation.

IV. *Application of policy.* This policy applies only to bodily injury or property damage (1) which is caused during the policy period by the nuclear energy hazard and (2) which is discovered and for which written claim is made against the insured, not later than two years after the end of the policy period.

EXCLUSIONS

This policy does not apply:

(a) To any obligation for which the insured or any carrier as his insurer may be held liable under any workmen's compensation, unemployment compensation or disability benefits law, or under any similar law;

(b) Except with respect to liability of another assumed by the insured under contract, to bodily injury to any employee of the insured arising out of and in the course of his employment by the insured; but this exclusion does not apply to bodily injury to any person who is not employed at and in connection with the facility if the insured has complied with the requirements of the applicable workmen's compensation or occupational disease law respecting the securing of compensation benefits thereunder to his employees;

(c) To liability assumed by the insured under contract, other than an assumption in a contract with another of the liability of any person or organization which would be imposed by law on such person or organization in the absence of an express assumption of liability;

(d) To bodily injury or property damage due to the manufacturing, handling or use at the location designated in Item 3 of the declarations, in time of peace or war, of any nuclear weapon or other instrument of war utilizing special nuclear material or byproduct material;

(e) To bodily injury or property damage due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or conditions incident to any of the foregoing;

(f) To property damage to any property at the location designated in Item 3 of the declarations, other than aircraft, watercraft or vehicles licensed for highway use, provided such aircraft, watercraft or vehicles are not used in connection with the operation of the facility;

(g) To property damage to nuclear material in the course of transportation to or from the facility including handling or storage incidental thereto;

(h) Under Coverage B, to property damage due to neglect of the insured to use all reasonable means to save and preserve the property after knowledge of the occurrence resulting in such property damage.

CONDITIONS

1. *Premium.* The named insured shall pay the companies the advance premium stated in the declarations, for the period from the effective date of this policy through December 31 following. Thereafter, at the beginning of each calendar year while this policy is in force, the named insured shall pay the advance premium for such year to the companies. The advance premium for each calendar year shall be stated in a written notice given by the companies to the named insured as soon as practicable prior to or after the beginning of such year.

Such advance premiums are estimated premiums only. As soon as practicable after each December 31 and after the termination of this policy, the earned premium for the preceding premium period shall be computed in accordance with the companies' rules, rates, rating plans, premiums and minimum premiums applicable to this insurance. If the earned premium thus computed for any premium period exceeds the advance premium previously paid for such period, the named insured shall pay the excess to the companies; if less, the companies shall return to the named insured the unearned portion paid by such insured.

The named insured shall maintain records of the information necessary for premium computation and shall send copies of such records to the companies as directed, at the end of each calendar year, at the end of the policy period and at such other times during the policy period as the companies may direct.

2. *Inspection; suspension.* The companies shall be permitted to inspect the facility and to examine the insured's books and records at any time, as far as they relate to the subject-matter of this insurance.

If a representative of the companies discovers a condition which he believes to be unduly dangerous with respect to the nuclear energy hazard, a representative of the companies may request that such condition be corrected without delay. In the event of noncompliance with such request, a representative of the companies may, by notice to the named insured, to any other person or organization considered by the companies to be responsible for the continuance of such dangerous condition, and to the United States Atomic Energy Commission, suspend the insurance with respect to the named insured and such other person or organization effective 12:00 midnight of the next business day of such Commission following the date that such Commission receives such notice. The period of such suspension shall terminate as of the time stated in a written notice from the companies to the named insured and to each such person or organization that such condition has been corrected.

3. *Limit of liability; termination of policy upon exhaustion of limit.* Regardless of the number of persons and organizations who are insureds under this policy, and regardless of the number of claims made and suits brought against any or all insureds because of one or more occurrences resulting in bodily injury or property damage caused during the policy period by the nuclear energy hazard, the limit of the companies' liability stated in the declarations is the total liability of the companies for their obligations under this policy and the expenses incurred by the companies in connection with such obligations, including.

(a) Payments in settlement of claims and in satisfaction of judgments against the insureds for damages because of bodily injury or property damage, payments made under parts (2), (3) and (4) of Coverage A and payments made in settlement of claims under Coverages B and C;

(b) Payments for expenses incurred in the investigation, negotiation, settlement and defense of any claim or suit, including, but not limited to, the cost of such services by salaried employees of the companies, fees and expenses of independent adjusters, attorneys' fees and disbursements, expenses for expert testimony, inspection and appraisal of property, examination, X-ray or autopsy or medical expenses of any kind;

(c) Payments for expenses incurred by the companies in investigating an occurrence resulting in bodily injury or property damage or in minimizing its effects.

Each payment made by the companies in discharge of their obligations under this policy or for expenses incurred in connection with such obligations shall reduce by the amount of such payment the limit of the companies' liability under this policy.

If, during the policy period or subsequent thereto, the total of such payments made by the companies shall exhaust the limit of the companies' liability under this policy, all liability and obligations of the companies under this policy shall thereupon terminate and shall be conclusively presumed to have been discharged. This policy, if not theretofore canceled, shall thereupon automatically terminate.

Regardless of the number of years this policy shall continue in force and the number of premiums which shall be payable or paid, the limit of the companies' liability stated in the declarations shall not be cumulative from year to year.

4. *Limitation of liability; common occurrence.* Any occurrence or series of occurrences resulting in bodily injury or property damage arising out of the radioactive, toxic, explosive or other hazardous properties of

(a) Nuclear material discharged or dispersed from the facility over a period of days, weeks, months or longer and also arising out of such properties of other nuclear material so discharged or dispersed from one or more other nuclear facilities insured by the companies under a Nuclear Energy Liability Policy (Facility Form), or

(b) Source material, special nuclear material, spent fuel or waste in the course of transportation for which insurance is afforded under this policy and also arising out of such properties of other source material, special nuclear material, spent fuel or waste in the course of transportation for which insurance is afforded under one or more other Nuclear Energy Liability Policies (Facility Form) issued by the companies,

shall be deemed to be a common occurrence resulting in bodily injury or property damage caused by the nuclear energy hazard.

With respect to such bodily injury and property damage (1) the total aggregate liability of the companies under all Nuclear Energy Liability Policies (Facility Form), including this policy, applicable to such common occurrence shall be the sum of the limits of liability of all such policies, the limit of liability of each such policy being as determined by Condition 3 thereof, but in no event shall such total aggregate liability of the companies exceed $46,500,000; (2) the total liability of the companies under this policy shall not exceed that proportion of the total aggregate liability of the companies, as stated in clause (1) above, which (a) the limit of liability of this policy, as determined by Condition 3, bears to (b) the sum of the limits of liability of all such policies issued by the companies, the limit of liability of each such policy being as determined by Condition 3, thereof.

The provisions of this condition shall not operate to increase the limit of the companies' liability under this policy.

5. *Notice of occurrence, claim, or suit.* In the event of bodily injury or property damage to which this policy applies or of an occurrence which may give rise to claims therefor, written notice containing particulars sufficient to identify the insured and also reasonably obtainable information with respect to the time, place and circumstances thereof, and the names and addresses of the injured and of available witnesses, shall be given by or for the insured to ---------- or the companies as soon as practicable. If claim is made or suit is brought against the insured, he shall immediately forward to ---------- or the companies every demand, notice, summons or other process received by him or his representative.

6. *Assistance and cooperation of the insured.* The insured shall cooperate with the companies and, upon the companies' request, attend hearings and trials and assist in making settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of any legal proceedings in connection with the subject matter of this insurance. The insured shall not, except at his own cost, make any payment, assume any obligation or incur any expense.

7. *Action against companies—Coverages A and C.* No action shall lie against the companies or any of them unless, as a condition precedent thereto, the insured shall have fully complied with all the terms of this policy, nor until the amount of the insured's obligation to pay shall have been finally determined either by judgment against the insured after actual trial or by written agreement of the insured, the claimant and the companies.

Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the companies or any of them as parties to any action against the insured to determine the insured's liability, nor shall the companies or any of them be impleaded by the insured or his legal representative. Bankruptcy or insolvency of the insured or of the insured's estate shall not relieve the companies of any of their obligations hereunder.

8. *Action against companies—Coverage B.* No suit or action on this policy for the recovery of any claim for property damage to which Coverage B applies shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with and unless commenced within two years after the occurrence resulting in such property damage.

9. *Insured's duties when loss occurs—Coverage B.* In the event of property damage to which Coverage B applies, the insured shall furnish a complete inventory of the property damage claimed, showing in detail the amount thereof. Within ninety-one days after the occurrence resulting in such property damage, unless such time is extended in writing by the companies, the insured shall render to the companies a proof of loss, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: identification of such occurrence; the interest of the insured in the property destroyed or damaged, and the amount of each item of property damage claimed; all encumbrances on such property; and all other contracts of insurance, whether valid or not, covering any of such property. The insured shall include in the proof of loss a copy of all descriptions and schedules in all policies. Upon the companies' request, the insured shall furnish verified plans and specifications of any such property. The insured, as often as may be reasonably required, shall exhibit to any person designated by the companies any of such property, and submit to examinations under oath by any person named by the companies and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, records, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by the companies or their representatives, and shall permit extracts and copies thereof to be made.

10. *Appraisal—Coverage B.* In case the insured and the companies shall fail to agree as to the amount of property damage, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire and, failing for fifteen days to agree upon such umpire, then, on request of the insured or the companies, such umpire shall be selected by a judge of a court of record in the state in which the property is located. The appraisers shall then appraise each item of property damage and, failing to agree, shall submit their differences only to the umpire. An award in writing, so itemized, of any two when filed with the companies shall determine the amount of property damage. Each appraiser shall be paid by the party selecting him and the expenses of the appraisal and umpire shall be paid by the parties equally. The companies shall not be held to have waived any of their rights by any act relating to appraisal.

11. *Subrogation.* In the event of any payment under this policy, the companies shall be subrogated to all the insured's rights of recovery therefor against any person or organization, and the insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. Prior to knowledge of bodily injury or property damage caused by the nuclear energy hazard the insured may waive in writing any right of recovery against any person or organization, but after such knowledge the insured shall not waive or otherwise prejudice any such right of recovery.

The companies hereby waive any rights of subrogation acquired against the United States of America or any of its agencies by reason of any payment under this policy.

The companies do not relinquish, by the foregoing provisions, any right to restitution from the insured out of any recoveries made by the insured on account of a loss covered by this policy of any amounts to which the companies would be entitled had such provisions, or any of them, not been included in this policy.

12. *Other insurance.* If the insurance afforded by this policy for loss or expense is concurrent with insurance afforded for such loss or expense by a Nuclear Energy Liability Policy (Facility Form) issued to the named insured by ---------- hereinafter called "concurrent insurance," the companies shall not be liable under this policy for a greater proportion of such loss or expense than the limit of liability stated in the declarations of this policy bears to the sum of such limit and the limit of liability stated in the declarations of such concurrent policy.

If the insured has other valid and collectible insurance (other than such concurrent insurance or any other nuclear energy liability insurance isued by the companies or ---------- to any person or organization) applicable to loss or expense covered by this policy, the insurance afforded by this policy shall be excess insurance over such other insurance; provided, with respect to any person who is not employed at and in connection with the facility, such insurance as is afforded by this policy for bodily injury to an employee of the insured arising out of and in the course of his employment shall be primary insurance under such other insurance.

13. *Changes.* Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or estop the

companies from asserting any right under the terms of this policy; nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy executed by _____ on behalf of the companies.

14. *Assignment.* Assignment of interest by the named insured shall not bind the companies until their consent is endorsed hereon; if, however, the named insured shall die or be declared bankrupt or insolvent, this policy shall cover such insured's legal representative, receiver or trustee as an insured under this policy, but only with respect to his liability as such, and then only provided written notice of his appointment as legal representative, receiver or trustee is given to the companies within ten days after such appointment.

15. *Cancellation.* This policy may be canceled by the named insured by mailing to the companies and the United States Atomic Energy Commission written notice stating when, not less than thirty days thereafter, such cancellation shall be effective. This policy may be canceled by the companies by mailing to the named insured at the address shown in this policy and to the United States Atomic Energy Commission written notice stating when, not less than ninety days thereafter, such cancellation shall be effective; provided in the event of non-payment of premium or if the operator of the facility, as designated in the declarations, is replaced by another person or organization, this policy may be canceled by the companies by mailing to the named insured at the address shown in this policy and to the United States Atomic Energy Commission written notice stating when, not less than thirty days thereafter, such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The effective date and hour of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the named insured or by the companies shall be equivalent to mailing.

Upon termination or cancellation of this policy, other than as of the end of December 31 in any year, the earned premium for the period this policy has been in force since the preceding December 31 shall be computed in accordance with the following provisions:

(a) If this policy is terminated, pursuant to Condition 3, by reason of the exhaustion of the limit of the companies' liability, all premium theretofore paid or payable shall be fully earned;

(b) If the named insured cancels, the earned premium for such period shall be computed in accordance with the customary annual short rate table and procedure, provided if the named insured cancels after knowledge of bodily injury or property damage caused by the nuclear energy hazard, all premiums theretofore paid or payable shall be fully earned;

(c) If the companies cancel, the earned premium for such period shall be computed pro rata.

Premium adjustment, if any, may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

16. *Company representation.* (a) Any notice, sworn statement or proof of loss which may be required by the provisions of this policy may be given to any one of the companies, and such notice, statement or proof of loss so given shall be valid and binding as to all companies.

(b) In any action or suit against the companies, service of process may be made on any one of them, and such service shall be deemed valid and binding service on all companies.

(c) _____ is the agent of the companies with respect to all matters pertaining to this insurance. All notices or other communications required by this policy to be given to the companies may be given to such agent, at its office at _____ with the same force and effect as if given directly to the companies. Any requests, demands or agreements made by such agent shall be deemed to have been made directly by the companies.

17. *Authorization of named insured.* Except with respect to compliance with the obligations imposed on the insured by Conditions 5, 6, 7, 8, 9, 10 and 11 of this policy, the named insured is authorized to act for every other insured in all matters pertaining to this insurance.

18. *Changes in subscribing companies and in their proportionate liability:* By acceptance of this policy the named insured agrees that the members of _____ liable under this policy, and the proportionate liability of each such member, may change from year to year, and further agrees that regardless of such changes:

(1) Each company subscribing this policy upon its issuance shall be liable only for its stated proportion of any obligation assumed or expense incurred under this policy because of bodily injury or property damage caused, during the period from the effective date of this policy to the close of December 31 next following, by the nuclear energy hazard; for each subsequent calendar year, beginning January 1 next following the effective date of this policy, the subscribing companies and the proportionate liability of each such company shall be stated in an endorsement issued to form a part of this policy, duly executed and attested by the _____ of _____ on behalf of each such company, and mailed or delivered to the named insured;

(2) This policy shall remain continuously in effect from the effective date stated in the declarations until terminated in accordance with Condition 3 or Condition 15;

(3) Neither the liability of any company nor the limit of liability stated in the declarations shall be cumulative from year to year.

19. *Declarations.* By acceptance of this policy the named insured agrees that the statements in the declarations are the agreements and representations of the named insured, that this policy is issued in reliance upon the truth of such representations and that this policy embodies all agreements between the named insured and the companies or any of their agents relating to this insurance.

In Witness Whereof, each of the subscribing companies has caused this policy to be executed and attested on its behalf by the _____ of _____ and duly countersigned on the declarations page by an authorized representative.

For the subscribing companies.

By _____

Subscribing companies *Proportion of 100%*

NUCLEAR ENERGY LIABILITY POLICY NO. _____ (FACILITY FORM)

DECLARATIONS

Item 1. Named Insured _____
Address _____
(No. Street Town or City State)

Item 2. Policy Period: Beginning at 12:01 a.m. on the _____ day of _____, 19__, and continuing through the effective date of the cancellation or termination of this policy, standard time at the address of the named insured as stated herein.

Item 3. Description of the Facility: Location _____
_____
_____
_____
_____
Type _____
_____
_____
The Operator of the facility is _____.

Item 4. The limit of the companies' liability is $ _____ subject to all the terms of this policy having reference thereto.

Item 5. Advance Premium $_____.

Item 6. These declarations and the schedules forming a part hereof give a complete description of the facility, insofar as it relates to the nuclear energy hazard, except as noted _____
_____
_____
_____

Date of Issue _____, 19__.
Countersigned by _____
(Authorized representative)

NUCLEAR ENERGY LIABILITY POLICY (FACILITY FORM)

AMENDMENT OF TRANSPORTATION COVERAGE (INDEMNIFIED NUCLEAR FACILITY)

It is agreed that the definition of "insured shipment" in Insuring Agreement III is amended to read: "insured shipment" means a shipment of source material, special nuclear material, spent fuel or waste, herein called "material," (1) to the facility from any location except an indemnified nuclear facility, but only if the transportation of the material is not by predetermination to be interrupted by removal of the material from a transporting conveyance for any purpose other than the continuation of its transportation, or (2) from the facility to any other location, but only until the material is removed from a transporting conveyance for any purpose other than the continuation of its transportation.

Effective date of this endorsement _____ to form a part of Policy No. _____.
Issued to _____
Date of Issue _____
For the subscribing companies.
By _____
Countersigned by _____
Endorsement No. _____.

Dated at Germantown, Md., this 30th day of March 1960.

For the Atomic Energy Commission.

A. R. LUEDECKE,
General Manager.

[F.R. Doc. 60-3090; Filed, Apr. 6, 1960; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7644 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Teller's et al.

Subpart—Advertising falsely or misleadingly: § 13.155 *Prices:* § 13.155–50 *Forced or sacrifice sales;* § 13.155–80 *Retail as cost, etc., or discounted.* Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely;* § 13.1108–45 *Fur Products Labeling Act.* Subpart—Misbranding or mislabeling: § 13.1212 *Formal regulatory and statutory requirements:* § 13.1212–30 *Fur Products Labeling Act.* Subpart—Neglecting, unfairly or deceptively, to make

material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* § 13.1852–35 *Fur Products Labeling Act.*

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 719; 15 U.S.C. 45, 69f) [Cease and desist order, Alvin's Furniture, t/a/ Teller's, et al., Chula Vista and San Diego, Calif., Docket 7644, March 15, 1960]

In the Matter of Alvin's Furniture, a Corporation, Trading as Teller's; and George Alvin Strep, Individually and as an Officer of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a corporate operator of retail stores in Chula Vista and San Diego, Calif. with violating the Fur Products Labeling Act by failing to comply with labeling and invoicing requirements; by advertising in newspapers which falsely represented retail prices of fur products to be at or below wholesale prices and such products to be the entire stock of a New York manufacturer which they were liquidating and had to sell within four days; and by failing to keep adequate records as a basis for said pricing claims.

After acceptance of an agreement for a consent order, the hearing examiner made his initial decision and order to cease and desist which became on March 15 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent Alvin's Furniture, a corporation, trading as Teller's or under any other name, and its officers; and respondent George Alvin Strep, as an individual or as an officer of said corporation; and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction into commerce, or the sale, advertising, offering for sale, transportation, or distribution in commerce, of fur products; or in connection with the sale, advertising, offering for sale, transportation, or distribution of fur products which are made in whole or in part of fur which has been shipped and received in commerce, as "commerce," "fur," and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

1. Misbranding fur products by:

(a) Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

(b) Failing to set forth on labels affixed to fur products the item number or mark assigned to such fur products.

2. Falsely or deceptively invoicing fur products by:

(a) Failing to furnish to purchasers of fur products an invoice showing all the information required to be disclosed by each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

(b) Failing to set forth on invoices the item number or mark assigned to such fur products.

3. Falsely or deceptively advertising fur products through the use of any advertisement, representation, public announcement or notice which is intended to aid, promote or assist, directly or indirectly, in the sale, or offering for sale, of fur products, and which:

(a) Represents, directly or by implication, that such fur products are being offered for sale at or below wholesale prices.

(b) Represents in any manner the savings available to purchasers of respondents' fur products.

(c) Represents, directly or by implication, that such fur products are from the stock of one manufacturer or source; that such fur products are being liquidated by respondents; or that they must be sold during the advertised sale.

4. Making claims and representations in advertisements respecting prices and values of fur products unless there are maintained by respondents full and adequate records disclosing the facts upon which such claims and representations are based.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: March 15, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 60-3162; Filed, Apr. 6, 1960; 8:46 a.m.]

[Docket 7533 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Towel Shop, Etc.

Subpart—Advertising falsely or misleadingly: § 13.20 *Comparative data or merits:* § 13.50 *Dealer or seller assistance;* § 13.110 *Indorsements, approval and testimonials;* § 13.185 *Refunds, repairs, and replacements;* § 13.205 *Scientific or other relevant facts.*

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Marcus Rosenfeld et al. t/a/Towel Shop, etc., St. Louis, Mo., Docket 7533, March 12, 1960]

In the Matter of Marcus Rosenfeld and Leon Rosenfeld, Individually and as Copartners Trading as Towel Shop, L and M Company, 40 Towel Co., 50 Towel Co. and Wholesale Towel Company

This proceeding was heard by a hearing examiner on the complaint of the Commission charging St. Louis distributors of non-woven fabrics, consisting of fibers held together by bonding agent, with advertising falsely by statements and photographs that a 12 by 18 inch towel was of the large size and general appearance, texture and thickness of fabric towels in common use and was far superior to common woven fabric towels in every way, that money would be refunded to dissatisfied purchasers, that testimonial letters they used were unsolicited, that they guaranteed the success of those who sold their product and that there was no competition, and that the product was made by a new scientific process.

Based on a consent agreement, the hearing examiner made his initial decision and order to cease and desist which became on March 12 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondents Marcus Rosenfeld and Leon Rosenfeld, individually and as copartners trading as Towel Shop, L and M Company, 40 Towel Co., 50 Towel Co., and Wholesale Towel Company or under any other name, their agents, representatives and employees, directly or through any corporate or other device in connection with the offering for sale, sale or distribution of their non-woven cotton and rayon fiber product, or any other like merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, through the use of photographs, or in any other manner, that their non-woven product has the appearance, thickness or texture of fabric towels in common use or misrepresenting in any manner the appearance, thickness or texture of their said product.

2. Using the word "towel" or any other word or words of similar import or meaning to describe their non-woven product, unless it is affirmatively stated, clearly and conspicuously, that their non-woven product does not have the appearance, texture and thickness of fabric towels in common use.

3. Representing, directly or by implication:

(a) That products referred to as towels, whose dimensions are 12" x 18" are large, or misrepresenting in any manner the size of their said product;

(b) That the money paid for their product will be refunded to dissatisfied purchasers, unless all of the money paid, including postage, is refunded; provided, however, that nothing herein shall prevent respondents from truthfully representing that a specific amount will be refunded to dissatisfied purchasers;

(c) That respondents' product is superior to ordinary woven towels in every way; or in any way that is not in accordance with the fact;

(d) That any solicited testimonial letter used by respondents was unsolicited;

(e) That respondents guarantee the success of those selling their product or that they do not have competition;

(f) That respondents' product is made by a scientific new process.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That respondents herein shall within sixty (60) days after service

upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: March 11, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 60-3163; Filed, Apr. 6, 1960; 8:46 a.m.]

[Docket 7601 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Recoton Corp. and G. Schirmer, Inc.

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees;* § 13.155 *Prices:* § 13.155-40 *Exaggerated as regular;* § 13.155-60 *List or catalog as regular selling.* Subpart—Misrepresenting oneself and goods—prices: § 13.1805 *Exaggerated as regular and customary.*

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Recoton Corp. and G. Schirmer, Inc., New York City and Long Island City, N.Y., Docket 7601, February 12 and March 8, 1960]

These proceedings were heard by a hearing examiner on the complaint of the Commission charging a manufacturer of phonograph needles and its retailer customer of New York City and Long Island City, respectively, with such unfair practices as advertising falsely in the New York Times that Recoton diamond and diamond-sapphire needles with a "List Price" of $25 and $30 were on sale at $9.95 and $10.95, and using the expression "Unconditional Lifetime Guarantee" when the guarantee was, in fact, subject to undisclosed limitations.

Based on consent agreements, the hearing examiner made his initial decisions and orders to cease and desist which became, on February 12 and March 8, respectively, the decisions of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent G. Schirmer, Inc., corporation, and respondent Recoton Corporation, a corporation, and their officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of phonograph needles or other merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. Any amount is the usual and customary retail price of merchandise when such amount is in excess of the price at which such merchandise is usually and customarily sold at retail in the trade area or areas where the representations are made;

2. Such merchandise is guaranteed, unless the nature and extent of the guarantee, and the manner in which the guarantor will perform thereunder, are clearly and conspicuously set forth.

By "Decisions of the Commission" etc., reports of compliance were required as follows:

It is ordered, That respondent G. Schirmer, Inc., corporation, and respondent Recoton Corporation, a corporation shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: February 12, 1960 and March 8, 1960.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 60-3164; Filed, Apr. 6, 1960; 8:46 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER F—PROCEDURE AND ADMINISTRATION

[T.D. 6459]

PART 303—TAXES UNDER THE TRADING WITH THE ENEMY ACT

Property Subject to the Trading With the Enemy Act

The following regulations, relating to the application of the Internal Revenue Code of 1954 pursuant to section 36 of the Trading With the Enemy Act, as added by the Act of August 8, 1946 (Pub. Law 671, 79th Cong., 60 Stat. 929), are hereby adopted:

Sec.
303.1 Statutory provisions; Trading With the Enemy Act.
303.1-1 Definitions.
303.1-2 Application of part.
303.1-3 Protection of internal revenue prior to tax determination.
303.1-4 Computation of taxes.
303.1-5 Payment of taxes.
303.1-6 Interest and penalties.
303.1-7 Claims for refund or credit.

AUTHORITY: §§ 303.1 to 303.1-7, incl., issued under sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805, and sec. 36 of the Trading With the Enemy Act, as added by the Act of Aug. 8, 1946, Pub. Law 671, 79th Cong., 60 Stat. 929; 50 U.S.C. App. 36.

§ 303.1 Statutory provisions; section 36, Trading With the Enemy Act.

SEC. 36. (a) The vesting in or transfer to the Alien Property Custodian of any property or interest (other than any property or interest acquired by the United States prior to December 18, 1941), or the receipt by him of any earnings, increment, or proceeds thereof shall not render inapplicable any Federal, State, Territorial, or local tax for any period prior or subsequent to the date of such vesting or transfer, nor render applicable the exemptions provided in title II of the Social Security Act with respect to service performed in the employ of the United States Government or of any instrumentality of the United States.

(b) The Alien Property Custodian shall, notwithstanding the filing of any claim or the institution of any suit under this Act, pay any tax incident to any such property or interest, or the earnings, increment, or proceeds thereof, at the earliest time appearing to him to be not contrary to the interest of the United States. The former owner shall not be liable for any such tax accruing while such property, interest, earnings, increment, or proceeds are held by the Alien Property Custodian, unless they are returned pursuant to this Act without payment of such tax by the Alien Property Custodian. Every such tax shall be paid by the Alien Property Custodian to the same extent, as nearly as may be deemed practicable, as though the property or interest had not been vested in or transferred to the Alien Property Custodian, and shall be paid only out of the property or interest, or earnings, increment, or proceeds thereof, to which they are incident or out of other property or interests acquired from the same former owner, or earnings, increment, or proceeds thereof. No tax liability may be enforced from any property or interest or the earnings, increment, or proceeds thereof while held by the Alien Property Custodian except with his consent. Where any property or interest is transferred, otherwise than pursuant to section 9(a) or 32 hereof, the Alien Property Custodian may transfer the property or interest free and clear of any tax, except to the extent of any lien for a tax existing and perfected at the date of vesting, and the proceeds of such transfer shall, for tax purposes, replace the property or interest in the hands of the Alien Property Custodian.

(c) Subject to the provisions of subsection (b) hereof, the manner of computing any Federal taxes, including without limitation by reason of this enumeration, the applicability in such computation of credits, deductions, and exemptions to which the former owner is or would be entitled, and the time and manner of any payment of such taxes and the extent of any compliance by the Custodian with provisions of Federal law and regulations applicable with respect to Federal taxes, shall be in accordance with the regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury to effectuate this section. Statutes of limitations on assessment, collection, refund, or credit of Federal taxes shall be suspended, with respect to any vested property or interest, or the earnings, increment or proceeds thereof, while vested and for six months thereafter; but no interest shall be paid upon any refund with respect to any period during which the statute of limitations is so suspended.

(d) The word "tax" as used in this section shall include, without limitation by reason of this enumeration, any property, income, excess-profits, war-profits, excise, estate and employment tax, import duty, and special assessment; and also any interest, penalty, additional amount, or addition thereto not arising from any act, omission, neglect, failure, or delay on the part of the Custodian.

(e) Any tax exemption accorded to the Alien Property Custodian by specific provision of existing law shall not be affected by this section.

[Section 36 as added by the Act of August 8, 1946 (Pub. Law 671, 79th Cong., 60 Stat. 929)]

Executive Order 9788, approved October 14, 1946 (3 CFR 1943-1948 Comp., p. 575)

By virtue of the authority vested in me by the Constitution and statutes, including the Trading With the Enemy Act of October 6, 1917, 40 Stat. 411, as amended, and the First War Powers Act, 1941, 55 Stat. 838, as amended, and as President of the United States, it is hereby ordered, in the interest

of the internal management of the Government, as follows:

1. The Office of Alien Property Custodian in the Office for Emergency Management of the Executive Office of the President, established by Executive Order No. 9095 of March 11, 1942, is hereby terminated; and all authority, rights, privileges, powers, duties, and functions vested in such Office or in the Alien Property Custodian or transferred or delegated thereto are hereby vested in or transferred or delegated to the Attorney General, as the case may be, and shall be administered by him or under his direction and control by such officers and agencies of the Department of Justice as he may designate.

2. All property or interests vested in or transferred to the Alien Property Custodian or seized by him, and all proceeds thereof, which are held or administered by him on the effective date of this order are hereby transferred to the Attorney General.

3. All personnel, property, records, and funds of the Office of Alien Property Custodian are hereby transferred to the Department of Justice.

4. This order supersedes all prior Executive orders to the extent that they are in conflict with this order.

5. This order shall become effective on October 15, 1946.

§ 303.1–1 Definitions.

(a) *General.* When used in this part, the terms defined in this section shall have the meaning so assigned to them. A term not defined in this section shall have the meaning, if compatible with the context, imputed thereto under the Internal Revenue Code of 1954.

(b) *Attorney General.* The term "Attorney General" includes the Alien Property Custodian whose functions were transferred to the Attorney General pursuant to Executive Order 9788 (3 CFR 1943–1948 Comp., p. 575), and any other officers and agencies to which such functions are transferred or assigned pursuant to such Executive Order, or otherwise.

(c) *Commissioner.* The term "Commissioner" means the Commissioner of Internal Revenue.

(d) *Person.* The term "person" includes an individual, a trust, estate, partnership, company, or corporation, and any entity having or claiming an interest in vested property or liable or charged with liability for internal revenue tax in connection with such property.

(e) *Former owner.* The term "former owner" means the owner immediately prior to vesting and any successor in interest by inheritance, devise, bequest, or operation of law, of such owner.

(f) *Trading With the Enemy Act.* The term "Trading With the Enemy Act" includes all amendments of such Act, and all orders, rules, and regulations issued or prescribed under such Act or any such amendment.

(g) *Property.* The term "property" includes money, the proceeds of property, income, dividends, interest, annuities, and other earnings, but does not include any property or interest or any of the foregoing which vested in the Attorney General or was otherwise acquired by the United States prior to December 18, 1941.

(h) *Property vested by or in the Attorney General.* The terms "property vested by the Attorney General" and "property vested in the Attorney General" include property conveyed, transferred, assigned, delivered, or paid to or held or controlled by or vested in the Attorney General, under the Trading With the Enemy Act.

(i) *Engaged in trade or business in the United States.* The term "engaged in trade or business in the United States" includes the managing and renting of real estate in the United States by an agent of the Attorney General or of the former owner duly authorized to execute rental agreements and to pay all taxes and charges incident to the repair and maintenance of such property, but does not include the mere renting or leasing of property under an agreement requiring the lessee or occupant to pay taxes and to make repairs or improvements.

(j) *Tax.* The term "tax" has the meaning stated in section 36(d) of the Trading With the Enemy Act as added by the Act of August 8, 1946.

§ 303.1–2 Application of part.

(a) *Property covered.* This part is applicable in connection with property vested in the Attorney General on and after December 18, 1941. It is not applicable in connection with property or interest in property so vested or acquired by the United States prior to December 18, 1941, which property or interest is governed by Treasury Decision 4168, approved June 21, 1928, as amended by Treasury Decision 4254, approved January 7, 1929, and Treasury Decision 4514, approved January 18, 1935 (26 CFR (1938 ed.) 452.1–452.10).

(b) *Taxes covered.* Except as otherwise provided by specific exemption applicable with respect to the Alien Property Custodian, this part applies in the circumstances therein indicated, to any internal revenue tax applicable in respect of (1) property vested in the Attorney General or any action or transaction incidental to such property, or (2) any person whose property is so vested or any action or transaction of such person, whether the tax is applicable in respect of the period of vesting or any other period. Federal employment taxes are applicable with respect to wages paid to a person not a regular Government employee, permanent or temporary, for services immediately connected with the operation of an enterprise under control of the Attorney General such as might be rendered to a private operator.

§ 303.1–3 Protection of internal revenue prior to tax determination.

(a) *Suits and claims for return of vested property*—(1) *General.* The provisions of this paragraph apply in cases where there has been neither a final nor a tentative determination of internal revenue tax liability. See paragraphs (e) and (f) of § 303.1–4. In such cases vested property shall not be returned except in accordance with this paragraph.

(2) *Notice to Commissioner*—(i) *Suits for recovery.* Where suit for the return of vested property has been instituted under section 9 of the Act, within a reasonable time after answer has been filed or after beginning of the trial of the case, the Attorney General shall, in writing, notify the Commissioner of the property involved and the name, address, citizenship, residence, and business organization of the claimant, and any other pertinent information.

(ii) *Return without suit.* At least 90 days prior to any return of vested property pursuant to section 32 of the Act the Attorney General shall in writing notify the Commissioner in the manner prescribed in subdivision (i) of this subparagraph.

(3) *Return of property*—(i) *Without security.* Vested property, the subject of a suit or proceeding pursuant to the Trading With the Enemy Act, may be returned without security prior to determination of applicable internal revenue taxes and prior to the judgment of the court or publication of the order of the Attorney General directing such return, to the following described claimants under the conditions hereinafter stated:

(*a*) *Residents and domestic enterprises.* In the case of claimants who at the time of return are (*1*) individuals permanently resident in the United States since December 7, 1941, or (2) corporations or other business enterprises organized under the laws of the United States, or any State, Territory, or possession thereof, or the District of Columbia, or doing business in the United States, the Attorney General may return the property at any time without notice to the Commissioner of such return.

(*b*) *Nonresidents, etc.* In the case of claimants who at the time of return are (*1*) individuals not permanently resident of the United States since December 7, 1941, or (2) nondomestic corporations or other nondomestic business enterprises not doing business within the United States, the property may be returned not less than 90 days after notice by the Attorney General to the Commissioner in a case within subparagraph (2) (i) of this paragraph, or not less than 60 days after notice in a case within subparagraph (2) (ii) of this paragraph, unless within such time the Attorney General is advised otherwise by the Commissioner.

(ii) *When security required.* Except as provided in subdivision (i) of this subparagraph vested property shall not be released prior to determination of tax liability without security satisfactory to the Commissioner, but determination of tax liability will be expedited in order that release of the property or of the security shall not be unnecessarily delayed.

(4) *Security.* Security when required shall be such of the following as shall, in the judgment of the Commissioner, be appropriate:

(i) *Bond.* A bond of the claimant conditioned upon payment of the full amount of internal revenue taxes determined to be due, filed with the district director in such amount, and with such sureties, as the Commissioner deems necessary. Only surety companies holding a certificate of authority from the Secretary of the Treasury may be used.

(ii) *Collateral security.* Collateral authorized by law deposited by the claimant in lieu of surety conditioned upon the payment of the full amount of internal revenue taxes determined to be due.

(iii) *Reservation of assets.* Moneys, or if the moneys are insufficient, so much of the other property involved, to be reserved by the Attorney General, as will be sufficient in the judgment of the Attorney General to cover any internal revenue tax liability determined by the Commissioner.

(b) *Vested property subject to debt claims—(1) Notice to Commissioner.* With respect to vested property available for the payment of debt claims under section 34 of the Act, and with respect to which debt claims have been filed, prior to the allowance of any such claims the Attorney General shall, in writing, notify the Commissioner of the property involved, the citizenship, residence, business organization, and other necessary information concerning the debtor and the aggregate of debt claims filed in respect thereof.

(2) *Action by Commissioner.* Upon receipt of the notice provided in subparagraph (1) of this paragraph the Commissioner shall, as soon as practicable and not later than 120 days after receipt of notice, unless the time is extended by the Commissioner after notice to the Attorney General—

(i) Determine the taxes payable by the Attorney General in respect of the debtor, or

(ii) Advise the Attorney General of the provision, if any, to be made by him for payment of taxes in respect of the debtor.

§ 303.1–4 Computation of taxes.

(a) *Detail of employees of the Internal Revenue Service.* The Commissioner will detail for the assistance of the Attorney General such employees of the Internal Revenue Service as may be necessary to make the computations under this part promptly and accurately.

(b) *Relationship of Attorney General and former owner.* In the computation of tax liability under this part, except as otherwise provided in this part, the vesting of property shall not be considered as affecting the ownership thereof; and any act of the Attorney General in respect of such property (including the collection or operation thereof and any investment, sale, or other disposition and any payment or other expenditure) shall be considered as the act of the owner. Nevertheless, except as otherwise provided in the Act or this part, insofar as taxes are incident to vested property during the period of vesting, they shall be payable by the Attorney General, except that to the extent of the value of any of the property returned to the former owner the latter shall be liable for such tax not paid by the Attorney General. While tax incident to nonvested property is collectible out of both vested and nonvested property, the nonvested property will be regarded as the primary source of collection of such tax. In determining the amount of the liability to be paid out of property not vested by the Attorney General a computation shall be made covering the taxpayer's full period of liability, but without regard to the vested property, or the income received by, or the operations of, the Attorney General. The amount so computed shall be first asserted against and collected so far as practicable from the taxpayer or out of his property which is not vested. Such part of the total tax liability as is not paid by the taxpayer or collected out of property not vested shall be asserted against the vested property. See § 303.1–5, relating to payment of taxes, and § 303.1–7, relating to claims for refund or credit.

(c) *Laws applicable to computation.* Except as otherwise specifically provided in this part, the computation under this part of any internal revenue tax liability shall be in accordance with the internal revenue laws and regulations applicable thereto, including all amendments of such laws or regulations enacted or promulgated prior to determination of the tax.

(d) *Periods for which computations made.* The amount of income, employment, and excise taxes under the internal revenue laws will be computed for each taxable year or period during all or part of which property is vested prior to the return of the property. In the case of a return of property prior to computation of tax, see § 303.1–3. Where vesting occurs during a taxable year or taxable period, any return filed or computation made covering vested or nonvested property should nevertheless be for the entire year or period. See paragraph (b) of this section. Unless facts are available indicating a liability for taxes for a taxable year or period occurring wholly prior or subsequent to the period of vesting of the property by the Attorney General, the computations under this part, both tentative and final, will be made only in respect of years and periods during all or part of which the property is held by the Attorney General.

(e) *Tentative computation.* In order that the return of property or other appropriate action may not be delayed until the amount of taxes payable is finally computed and paid, a tentative computation of such amount will be made in every case, unless there are circumstances appearing to make such action inappropriate. Such circumstances would include (1) return of the property in accordance with § 303.1–3, (2) notice to the Commissioner of Internal Revenue by the person to whom the property is returnable or by the Attorney General that such person or the Attorney General, as the case may be, prefers that the return of the property be postponed until the amount of such taxes can be finally computed, or (3) belief on the part of the Commissioner that a final computation will not unduly delay the return of, or other appropriate action with respect to, the property. In making any such tentative computation of income or estate tax, the gross income or the gross estate, as the case may be, as shown by the records of the Attorney General (excluding therefrom items exempt from taxation) shall be considered as the taxable income or taxable estate, respectively, unless a tax return has been filed or facts are available upon which a more accurate computation can be made. In any case in which a duly authorized officer or employee of the Internal Revenue Service has otherwise computed the amount of taxes payable in respect of any period, such computation will be accepted as a tentative computation, unless the facts clearly indicate that a more accurate computation can be made.

(f) *Final computation—(1) General.* A final computation of the amount of taxes payable by the person to whom property is returnable, or out of property to be returned, will be made as soon as practicable in every case. In any case in which the amount shown by a tentative computation has been paid, refund or credit of any amount paid in excess of the amount properly due will be made in accordance with the final computation, even though a claim therefor has not been filed, if the period of limitation applicable to the filing of such claim has not expired. However, if it is desired to protect the right to any credit or refund determined to be due, a claim for credit or refund should be filed. The sufficiency of any such claim in respect of an amount paid in accordance with a tentative computation under this part will not be questioned solely because facts upon which a more accurate computation could be made are not available or cannot be established at the time such claim is filed. Any such claim in respect of an amount paid in accordance with a final computation must, however, clearly set forth in detail under the penalties of perjury all the facts relied upon in support of the claim and must conform to the regulations applicable to an ordinary claim for refund or credit. See § 301.6402–2 of this chapter and § 303.1–7, relating to claims for refund or credit.

(2) *Information required—(i) Income taxes.* The following information submitted under the penalties of perjury by or for the taxpayer is necessary in each case for a final computation, for each taxable year for which the computation is to be made:

(*a*) All income (other than income received by the Attorney General) from sources within the United States, or if no such income has been received, then a statement to that effect, except that in the case of a citizen or resident of the United States, income from sources without as well as within the United States must be shown.

(*b*) If a return of such income has been made, then the following data in respect of such return:

(*1*) The taxable year for which the return was made and the tax paid;

(*2*) The name of the taxpayer for whom the return was made;

(*3*) The name of the agent or other person (if any) by whom such return was made;

(*4*) The office of the district director in which the return was filed.

(c) Such other facts as may be required, from time to time, by the Commissioner.

(ii) *Other taxes.* Except as otherwise provided in subdivision (i) of this subparagraph, in order to make a final computation of the amount of any internal revenue tax payable by return in any case, the usual return should be filed, together with the supporting doc-

uments required by the regulations pertaining to the tax.

(g) *Tax returns*—(1) *General.* In many cases allowance of deductions and credits is contingent upon the making of a return in accordance with the applicable internal revenue law. The submission of evidence relative to income tax in accordance with subdivisions (*a*) and (*c*) of paragraph (f) (2) (i) of this section will be considered as the making of the return required by any such law, only (i) for any taxable period, ending on or before December 31, 1946, during all or part of which all or part of the property of the taxpayer was held by the Attorney General, or (ii) for any taxable period ending within one year from the date of the first return to the taxpayer, of any part of the property held by the Attorney General, whichever period ends later. In all other cases a return will be required in accordance with the applicable internal revenue laws and regulations. In the case of returns where property is vested during a taxable year or period, see paragraph (d) of this section.

(2) *Estates and trusts.* In the case of estates and trusts the fiduciaries shall file returns, including information returns as required by section 6041 of the Internal Revenue Code of 1954.

(3) *Income tax forms to be used.* In the case of taxpayers engaged in trade or business in the United States Forms 1040B and 1120, as may be appropriate, shall be used. Where the taxpayer is not engaged in trade or business in the United States, Form M797 may be used in lieu of Forms 1040NB, 1040NB–a and 1120NB.

§ 303.1–5 Payment of taxes.

(a) *Pursuant to tentative computations.* The amount of taxes shown by a tentative computation shall be paid by the Attorney General or the taxpayer, as the case may be, to the district director as soon as practicable after the tentative computation has been made. It will not be necessary, however, for the payment by the Attorney General to be made prior to the return of property if an amount sufficient to cover all internal revenue taxes is retained from the property by the Attorney General.

(b) *Pursuant to final computations.* Upon a final computation of internal revenue taxes properly payable, the amount thereof remaining unpaid shall be paid by the Attorney General to the district director as soon as practicable after the final computation has been made, or, in case the property has been returned to the former owner, by such owner. If the final computation shows that the full amount of internal revenue taxes properly payable is less than the amount previously paid, the difference shall be credited or refunded in accordance with the provisions of these and other applicable regulations. A final computation will not prohibit a subsequent recomputation if it is determined that the amount shown by the final computation is erroneous.

(c) *Deficiency procedure.* The Attorney General shall pay internal revenue taxes without regard to the provisions of law relating to the sending of a deficiency notice by certified or registered mail or to notice and demand.

§ 303.1–6 Interest and penalties.

(a) *Liability for interest and civil penalties.* Under subsection (d) of section 36 of the Trading With the Enemy Act there is no liability for interest or penalty on account of any act or failure of the Attorney General. Such subsection is not applicable to interest or penalties payable in respect of any act or failure during the period prior to the vesting of the property by the Attorney General, or after the return of the property, or during the period during which the property was vested by the Attorney General on account of an act or omission of any person other than the Attorney General.

(b) *Adjustment.* In case of any assessment or collection, or credit or refund, of interest or a civil penalty contrary to the provisions of section 36 (c) or (d), proper adjustment shall be made.

§ 303.1–7 Claims for refund or credit.

(a) Claims for refund or credit must be filed within the period prescribed by section 6511 of the Internal Revenue Code of 1954 as modified by section 36 (c) of the Trading With the Enemy Act. Any such claim must contain a detailed statement under the penalties of perjury of all the facts relied upon in support of the claim and should be filed with the district director for the district in which the tax was paid. See paragraph (f) (1) of § 303.1–4, relating to final computation.

(b) Any act of the Attorney General for, or on behalf of, a taxpayer in respect of any claim under this part will be considered as the act of such taxpayer, unless such taxpayer notifies the Commissioner of Internal Revenue in writing, by the filing of a claim for refund or credit or otherwise, that he does not ratify such act. See paragraph (b) of § 303.1–4, relating to relationship of Attorney General and former owner.

(c) All refund of taxes paid by the Attorney General shall be made directly to that official.

Because this Treasury decision merely revises without substantial change the provisions of Treasury Decision 5612, approved April 9, 1948 (26 CFR (1939) Part 452), as in effect immediately prior to the effective date of this Treasury decision, it is hereby found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitations of section 4(c) of that Act.

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Approved: April 1, 1960.

FRED C. SCRIBNER, Jr.,
Acting Secretary of the Treasury.

[F.R. Doc. 60–3180; Filed, Apr. 6, 1960; 8:49 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

Apalachicola River, Fla.; Sabine Lake, Texas and Louisiana

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.245 governing the operation of drawbridges across navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets, where constant attendance of draw tenders is not required, is hereby amended revoking paragraphs (i) (9) and (j) (21–a), effective on publication in the FEDERAL REGISTER, as follows:

§ 203.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(i) *Waterways discharging into Gulf of Mexico east of Mississippi River.* * * *

(9) [Revoked]

* * * * *

(j) *Waterways discharging into the Gulf of Mexico west of Mississippi River.* * * *

(21–a) [Revoked]

[Regs. Mar. 24 and 25, 1960, 285/91 (Apalachicola River, Fla.) (Sabine Lake, Tex. and La.)—ENGCW–O] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

BRUCE EASLEY,
Major General, U.S. Army,
Acting The Adjutant General.

[F.R. Doc. 60–3154; Filed, Apr. 6, 1960; 8:45 a.m.]

Title 32—NATIONAL DEFENSE

Chapter XVII—Office of Civil and Defense Mobilization

PART 1712—LABOR STANDARDS FOR FEDERALLY ASSISTED CONTRACTS

Project Applications

Paragraph (b) of § 1712.3 is revised to read as follows:

(b) The State hereby agrees to and represents, as a condition of this project application, the following:

(1) A United States Department of Labor Form DB–11, requesting the Secretary of Labor to issue a wage determination decision in accordance with the Davis-Bacon Act for the project, shall be duly executed by the authorized official on behalf of the State (or political subdivision, where applicable) and shall be submitted to the Office of Civil and De-

fense Mobilization in accordance with the procedures established by that Office, including any amendments thereto, for transmittal to the Department of Labor.

(2) Each advertisement of an invitation to bid shall indicate expressly that all laborers and mechanics employed by contractors or subcontractors in performance of the construction work shall be paid wages at rates not less than those determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. secs. 276–276a–5) and every such employee shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in the workweek, as the case may be, as provided in section 201 of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. sec. 2281), and in addition, the bid specifications shall contain the labor standards provisions set forth in § 1712.4 and shall have attached thereto the wage determination decision of the Secretary of Labor issued for the project.

(Sec. 401, 64 Stat. 1254, 72 Stat. 1799, 23 FR 4991, 72 Stat. 861, 3 CFR 1958 Supp.; 50 U.S.C. App. 2253, 5 U.S.C. 133z—15 E.O. 10773, 23 FR 5061, E.O. 10782, 23 FR 6971, 3 CFR 1958 Supp.)

Effective date: This revision shall become effective on the date of its publication in the FEDERAL REGISTER.

Signed at Washington, D.C., this 28th day of March 1960.

LEO A. HOEGH,
Director.

[F.R. Doc. 60–3153; Filed, Apr. 6, 1960; 8:45 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 3—VETERANS CLAIMS

Liberalization of Definition of "Child" To Include Child Adopted After Death of Veteran

Part 3, Chapter I of Title 38 of the Code of Federal Regulations, is amended by adding § 3.1542 as follows:

§ 3.1542 Liberalization of definition of "child" to include child adopted after death of veteran.

(a) *Provisions of the law.* Public Law 86–195 amends 38 U.S.C. 101(4) by adding the following sentence: "A person shall be deemed, as of the date of death of a veteran, to be the legally adopted child of such veteran if such person was at the time of the veteran's death living in the veteran's household and was legally adopted by the veteran's surviving sponse within two years after the veteran's death or the date of enactment of this sentence; however, this sentence shall not apply if at the time of the veteran's death, such person was receiving regular contributions toward his support from some individual other than the veteran or his spouse, or from any public or private welfare organization which furnishes services or assistance for children."

(b) *Effect of act.* The definition of "child" in 38 U.S.C. 101(4), as amended by this law, is applicable to all benefits covered by Title 38, United States Code, except for insurance purposes under chapter 19 or in disposing of personal property of the veteran under section 5202(b).

(c) *Adoption*—(1) *Evidence.* A certified copy of the final decree of adoption will be required, together with such other evidence as may be necessary to establish the identity of the parties, or to substantiate the date of the child's birth, or to ascertain any other pertinent and material facts in the particular case.

(2) *Spouse.* The term "spouse" as used in the law means a person who was the lawful wife or husband of the veteran at the time of his death, or whose marriage to the veteran is deemed valid under § 4.438a of this chapter and § 3.1531(f). It is immaterial that the spouse may have remarried and that the new wife or husband is a party to the adoption.

(3) *Legality of adoption.* The determination as to legality of adoption will be made by the adjudicating office except that a legal opinion will be requested where the letters of adoption are not regular on their face or circumstances surrounding the adoption suggest that the procedure was not accomplished in conformity with the law of the State involved.

(4) *Time limit.* The date of the final decree will be used in determining whether the adoption occurred within two years from the date of the veteran's death or the date of enactment, August 25, 1959.

(d) *"Living in the veteran's household".* The requirement that the child must have been "living in the veteran's household" at the time of the veteran's death will be considered as having been met if the child was a "member of the veteran's household" within the criteria applicable to that term as used in the definition of a stepchild. The question of whether the child was a member of the veteran's household at the time of death is one of fact to be ascertained by the best evidence obtainable. In the absence of information to the contrary, the statement of the adoptive mother or custodian of the child will be accepted. However, where necessary, additional evidence will be requested, such as the statements of individuals who have personal knowledge of the facts, school records, etc.

(e) *Contributions toward child's support*—(1) *Definition.* The term "regular contribution" as used in the law means:

(i) Any recurring contributions of sufficient size to constitute the major portion of the child's support while a member of the veteran's household; or

(ii) Except as provided in subparagraph (2) of this paragraph, the acceptance of the child into the veteran's household based on an arrangement whereby there would be regular contributions which would provide a major portion of the child's support.

(2) *Statement required.* A statement will be required from the adoptive parent or the custodian of the child showing whether at the time of acceptance of the child into the veteran's household or at the time of the veteran's death, regular contributions were promised or being made toward the support of the child by an individual other than the veteran or his spouse, or by any public or private welfare organization which furnishes services or assistance to children. The statement should include information as to the name and address of the person or organization making the contribution, the amount thereof, and the method of payment, whether weekly, monthly, quarterly, semi-annually, or yearly and, if such payments were discontinued prior to the veteran's death, the reason for the termination. If the evidence shows that payments, based on an arrangement, were never made or were discontinued but the child remained in the veteran's household because of the veteran's intention to have it become a member of his family, then the initial arrangement should not be construed as a bar.

(3) *Acceptance of statement.* This statement will be accepted unless there is some evidence of record which would cast doubt on its veracity or completeness, in which event such additional evidence will be requested as may be indicated by the circumstances in the particular case.

(f) *Effective date.* The law became effective on the date of enactment, August 25, 1959. The provisions of this paragraph apply to claims which are allowed solely because of its liberalizing provisions and are subject to the rule that the effective date may not be earlier than the date of the final decree of adoption.

(1) *Pending claims.* Where otherwise in order, the effective date of an award as to a claim pending on the date of approval of the act will be August 25, 1959. For the purposes of this subparagraph a pending claim will include:

(i) A claim not previously disallowed by the adjudicating activity of original jurisdiction.

(ii) A previously disallowed claim pending consideration on appeal.

(iii) A previously disallowed claim reopened by the receipt of any claim, evidence, or inquiry on which action was pending on August 25, 1959.

(iv) A previously disallowed claim reopened by the receipt of any claim, evidence, or inquiry after August 25, 1959, within the appeal period.

(2) *New claims.* All other claims, formal or informal, received on or after August 25, 1959, will be considered initial claims for the purpose of this law and the effective date will be determined under applicable laws and regulations relating to original claims but not earlier than August 25, 1959. (Instruction 1, 38 U.S.C. 101(4), Public Law 86–195)

(72 Stat. 1114; 38 U.S.C. 210)

This regulation is effective April 7, 1960.

[SEAL] ROBERT J. LAMPHERE,
Associate Deputy Administrator.

[F.R. Doc. 60–3179; Filed, Apr. 6, 1960; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 194]

LIQUOR DEALERS

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

In order to implement the revision of the taxing and regulatory provisions of the Internal Revenue Code of 1954, as amended by Public Law 85-859 enacted September 2, 1958, prescribe certain changes in administrative procedure, and make certain conforming and clarifying editorial changes, the regulations in Part 194, Liquor Dealers, are revised and reissued as follows:

PREAMBLE. 1. The regulations in this part shall supersede Part 194—Liquor Dealers, 1955 edition (26 CFR Part 194; 20 F.R. 2159).

2. These regulations shall not affect any act done or any liability or right accruing, or accrued, or any suit or proceeding had or commenced before the effective date of these regulations.

3. The regulations in this part shall become effective on July 1, 1960.

Subpart A—Scope of Regulations

§ 194.1 Applicability.

This part contains the substantive and procedural requirements relating to the special taxes imposed on wholesale and retail dealers in liquors, wholesale and retail dealers in beer, and limited retail dealers; requirements and procedures pertaining to operations of such dealers prescribed under the Internal Revenue Code of 1954, as amended; and provisions relating to entry of premises and inspection of records by internal revenue officers.

§ 194.2 Territorial extent.

The provisions of this part shall be applicable in the several States of the United States and the District of Columbia.

§ 194.3 Basic permit requirements.

Every person, except an agency of a State or political subdivision thereof, who intends to engage in the business of selling distilled spirits, wines, or beer to other dealers is required by regulations in 27 CFR Part 1 to obtain a basic permit authorizing him to engage in such business.

§ 194.4 Relation to State and municipal law.

The payment of any tax imposed by this part for carrying on any trade or business shall not be held to exempt any person from any penalty or punishment provided by the laws of any State for carrying on such trade or business within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State or in places prohibited by municipal law; nor shall the payment of any such tax be held to prohibit any State from placing a duty or tax on the same trade or business, for State or other purposes. (72 Stat. 1348; 26 U.S.C. 5145)

Subpart B—Definitions

§ 194.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Assistant regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, a regional commissioner of internal revenue.

Beer. Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

Bonded wine cellar. An establishment qualified under this chapter for the production, blending, cellar treatment, storage, bottling, and packaging or repackaging of untaxpaid wine.

Brewery. An establishment qualified under this chapter for the production of beer.

CFR. The Code of Federal Regulations.

Dealer. Any person who sells, or offers for sale, any distilled spirits, wines, or beer.

Denatured spirits or denatured alcohol. Spirits to which denaturants have been added as prescribed under this chapter.

Director. The Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Treasury Department, Washington 25, D.C.

Distilled spirits or spirits. The substance known as ethyl alcohol, ethanol, or spirits of wine, and all dilutions and mixtures thereof, from whatever source or by whatever process produced, including alcohol, whisky, brandy, rum, gin, vodka, cordials, liqueurs, and cocktails (except cordials and cocktails containing no alcoholic liquors other than wine as defined herein).

Distilled spirits plant. An establishment qualified under this chapter for the production, bonded storage, rectification, or bottling of distilled spirits.

District director. A district director of internal revenue.

Fiscal year. The period from July 1 of one calendar year through June 30 of the following year.

Gallon or wine gallon. A United States gallon of liquid measure equivalent to the volume of 231 cubic inches.

Internal revenue officer. An officer or employe of the Internal Revenue Service

duly authorized to perform any function relating to the administration or enforcement of this part.

I.R.C. The Internal Revenue Code of 1954, as amended.

Liquor bottles. Bottles or other containers which have been used for the bottling or packaging of distilled spirits under regulations prescribed by the Secretary of the Treasury or his delegate, designated as Part 175 of this chapter.

Liquors. Distilled spirits, wines, or beer.

Person. An individual, a trust, estate, partnership, association or other unincorporated organization, fiduciary, company, or corporation, or the District of Columbia, a State, or a political subdivsion thereof (including a city, county or other municipality).

Place, or place of business. The entire office, plant, or area of the business in any one location under the same proprietorship; and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises shall not be deemed a separation for special tax purposes, if the various divisions are otherwise contiguous.

Regional commissioner. A regional commissioner of internal revenue.

Sale at retail or retail sale. Sale of liquors to a person other than a dealer.

Sale at wholesale or wholesale sale. Sale of liquors to a dealer.

Special tax. The occupational tax imposed on a dealer in liquors or a dealer in beer.

U.S.C. The United States Code.

Wine. All kinds and types of wine (including imitation, substandard, and artificial wine, Vermouth and compounds sold as wine) having not in excess of 24 percent of alcohol by volume.

Subpart C—Special (Occupational) Taxes

§ 194.21 Basic of tax.

Special taxes are imposed on persons engaging in or carrying on the business or occupation of selling or offering for sale alcoholic liquors fit for use as a beverage or any alcoholic liquors sold for use as a beverage. The classes of liquor dealer business on which special occupational tax is imposed and the conditions under which such tax is incurred are specified in §§ 194.23–194.28. No person shall engage in any business on which the special tax is imposed until he has filed a special tax return as provided in § 194.104 of this part and paid the special tax for such business.

(72 Stat. 1346; 26 U.S.C. 5142)

§ 194.22 Selling or offering for sale.

Whether the activities of any person constitute engaging in the business of selling or offering for sale is to be determined by the facts in each case, but any course of selling or offering for sale, though to a restricted class of persons or without a view to profit, is within the meaning of the statute.

DEALERS CLASSIFIED

§ 194.23 Retail dealer in liquors.

(a) *General.* Every person who sells or offers for sale distilled spirits, wines, or beer to any person other than a dealer is, except as provided in paragraph (b) of this section, a retail dealer in liquors. Every retail dealer in liquors shall pay special tax at the rate specified in § 194.101 for such dealer, unless such dealer is exempt from such special tax as provided in paragraph (c) of this section.

(b) *Persons not deemed to be retail dealers in liquors.* The following persons are not deemed to be retail dealers in liquors within the meaning of chapter 51, I.R.C., and are not required to pay special tax as such dealer—

(1) A retail dealer in beer as defined in § 194.25,

(2) A limited retail dealer as specified in § 194.27, or

(3) A person who only sells or offers for sale distilled spirits, wines, or beer as provided in §§ 194.188–194.190 or 194.191(a).

(c) *Persons exempt from special tax.* The following persons are exempt from special tax as retail dealers in liquors—

(1) A wholesale dealer in liquors selling or offering for sale distilled spirits, wines, or beer, whether to dealers or persons other than dealers, at any place where such wholesale dealer in liquors is required to pay special tax as such dealer.

(2) A wholesale dealer in beer selling or offering for sale beer only, whether to dealers or persons other than dealers, at any place where such wholesale dealer in beer is required to pay special tax as such dealer, or

(3) A person who is exempt from such tax under the provisions of §§ 194.181–194.184 or 194.187.

(72 Stat. 1340, 1343, 1344; 26 U.S.C. 5113, 5121, 5122)

§ 194.24 Wholesale dealer in liquors.

(a) *General.* Every person who sells or offers for sale distilled spirits, wines, or beer to another dealer is, except as provided in paragraph (b) of this section, a wholesale dealer in liquors. Every wholesale dealer in liquors is required to pay special tax at the rate specified in § 194.101 for such dealer, unless such dealer is exempt from such special tax as provided in paragraph (c) of this section.

(b) *Persons not deemed to be wholesale dealers in liquors.* The following persons are not deemed to be wholesale dealers in liquors within the meaning of chapter 51, I.R.C., and are not required to pay special tax as such dealer—

(1) A wholesale dealer in beer as defined in § 194.26,

(2) A person who only sells or offers for sale distilled spirits, wines, or beer as provided in §§ 194.188–194.190 or 194.192, or

(3) A person returning liquors for credit, refund, or exchange as provided in § 194.193.

(c) *Persons exempt from special tax.* (1) The following persons are exempt from special tax as wholesale dealers in liquors—

(i) A retail dealer in liquors who consummates sales of beer or wine, or both, to a limited retail dealer at the place where such retail dealer in liquors has paid the special tax as such dealer for the current fiscal year,

(ii) A retail dealer in beer who consummates sales of beer to a limited retail dealer at the place where such retail dealer in beer has paid the special tax as such dealer for the current fiscal year, or

(iii) A person who is exempt from such tax under the provision of §§ 194.181–194.184.

(2) A wholesale dealer in liquors who has paid the special tax as such dealer at the place, or places, from which he conducts his selling operations is exempt from additional special tax on account of his sales of beer or wines to other dealers at the places of business of such dealers.

(72 Stat. 1340, 1344; 26 U.S.C. 5111, 5112, 5113, 5123)

§ 194.25 Retail dealer in beer.

(a) *General.* Every person who sells or offers for sale beer, but not distilled spirits or wines, to any person other than a dealer is, except as provided in paragraph (b) of this section, a retail dealer in beer. Every retail dealer in beer shall pay special tax at the rate specified in § 194.101 for such dealer, unless such dealer is exempt from such special tax as provided in paragraph (c) of this section.

(b) *Persons not deemed to be retail dealers in beer.* The following persons are not deemed to be retail dealers in beer within the meaning of chapter 51, I.R.C., and are not required to pay a special tax as such dealer—

(1) A limited retail dealer as specified in § 194.27, or

(2) A person who only sells or offers for sale beer, but not distilled spirits or wines, as provided in §§ 194.188–194.189 or 194.191(a).

(c) *Persons exempt from special tax.* The following persons are exempt from special tax as retail dealers in beer—

(1) A wholesale dealer in beer selling or offering for sale beer, but not distilled spirits or wines, whether to dealers or persons other than dealers, at any place where such wholesale dealer in beer is required to pay special tax as such dealer.

(2) A person who is exempt from such tax under the provisions of §§ 194.181, 194.184, or 194.187.

(72 Stat. 1340, 1343, 1344; 26 U.S.C. 5113, 5121, 5122)

§ 194.26 Wholesale dealer in beer.

(a) *General.* Every person who sells or offers for sale beer, but not distilled spirits or wines, to another dealer is, except as provided in paragraph (b) of this section, a wholesale dealer in beer. Every wholesale dealer in beer is required to pay special tax at the rate specified in § 194.101 for such dealer,

unless such dealer is exempt from such special tax as provided in paragraph (c) of this section.

(b) *Persons not deemed to be wholesale dealers in beer.* The following persons are not deemed to be wholesale dealers in beer within the meaning of chapter 51, I.R.C., and are not required to pay special tax as such dealer—

(1) A person who only sells or offers for sale beer, but not distilled spirits or wines, as provided in §§ 194.188–194.189 or 194.192, or

(2) A person returning beer for credit, refund or exchange as provided in § 194.193.

(c) *Persons exempt from special tax.* (1) The following persons are exempt from special tax as wholesale dealers in beer—

(i) A retail dealer in liquors who consummates sales of beer or wines, but not distilled spirits, to a limited retail dealer at the place where such retail dealer in liquors has paid the special tax as such dealer for the current fiscal year.

(ii) A retail dealer in beer who consummates sales of beer to a limited retail dealer at the place where such retail dealer in beer has paid the special tax as such dealer for the current fiscal year, or

(iii) A person who is exempt from such tax under the provisions of §§ 194.181 and 194.184.

(2) A wholesale dealer in beer who has paid the special tax as such dealer at the place, or places, from which he conducts his selling operations is exempt from additional special tax on account of his sales of beer to other dealers at the places of business of such dealers.

(72 Stat. 1340, 1344; 26 U.S.C. 5111, 5112, 5113, 5123)

§ 194.27 Limited retail dealer; persons eligible.

Each person desiring to sell beer or wine, or both, to members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or similar outings, and any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization desiring to sell beer or wine, or both, on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, shall obtain from the district director, for each calendar month in which sales are to be made, a special tax stamp as a limited retail dealer in liquors: *Provided,* That no person or organization otherwise engaged in business as a dealer shall procure such limited special tax stamp. Application on Form 11 and payment of special tax at the rate specified in § 194.101 shall be submitted to the district director before any sales are made. If requested on Form 11, the district director may issue the special tax stamp under the designation of (a) limited retail dealer in wine, if wine only is to be sold, or (b) limited retail dealer in beer, if beer only is to be sold.

(72 Stat. 1344, 1346; 26 U.S.C. 5122, 5142)

§ 194.28 Sales of 20 wine gallons or more.

Any person who sells or offers for sale distilled spirits, wines, or beer, in quantities of 20 wine gallons or more, to the same person at the same time, shall be presumed and held to be a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be, unless such person shows by satisfactory evidence that such sale, or offer for sale, was made to a person other than a dealer.

(72 Stat. 1413; 26 U.S.C. 5691)

SPECIAL TAX LIABILITY OF CERTAIN ORGANIZATIONS, AGENCIES AND PERSONS

§ 194.29 Clubs or similar organizations.

A club or similar organization shall pay special tax if such club or organization—

(a) Furnishes liquors to members under conditions constituting sale (including the acceptance of orders therefor, furnishing the liquors ordered and collecting the price thereof); or

(b) Conducts a bar for the sale of liquors on the occasion of an outing, picnic, or other entertainment (the special tax stamp of the proprietor of the premises where such bar is located will not relieve the club or organization of special tax liability); or

(c) Purchases liquors for members without prior agreement concerning payment therefor and such organization subsequently recoups.

However, special tax liability is not incurred if money is collected in advance from members for the purchase of liquors, or money is advanced for purchase of liquors on agreement with the members for reimbursement.

(72 Stat. 1340, 1343, 1344; 26 U.S.C. 5111, 5121 and 5122)

§ 194.30 Restaurants serving liquors with meals.

Proprietors of restaurants and other persons who serve liquors with meals to customers, though no separate or specific charge for the liquors is made, shall pay special tax.

(72 Stat. 1344; 26 U.S.C. 5122)

§ 194.31 States, political subdivisions thereof, or the District of Columbia.

A State, political subdivision thereof, or the District of Columbia which engages in the business of selling, or offering for sale, distilled spirits, wines, or beer is not exempt from special tax. However, no such governmental entity which has paid the applicable retail dealer special tax at its retail stores and the applicable wholesale dealer special tax at its principal office shall be required to pay additional wholesale dealer special tax at such retail stores by reason of the sale thereat of distilled spirits, wines, or beer, to dealers qualified to do business as such within the jurisdiction of such entity.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5113, 5121)

§ 194.32 Sales of denatured spirits or articles.

Any person who sells denatured spirits or any substance or preparation made with or containing denatured spirits for use, or for sale for use, for beverage purposes, or who sells any of such products under circumstances from which it might reasonably appear that it is the intention of the purchaser to procure the same for sale or use for beverage purposes, shall pay special tax.

(72 Stat. 1314; 26 U.S.C. 5001)

§ 194.33 Sales of alcoholic compounds, preparations, or mixtures containing distilled spirits, wines, or beer.

(a) *Special tax liability.* Special tax liability will be incurred with respect to the sale, or offering for sale, of alcoholic compounds, preparations, or mixtures containing distilled spirits, wines, or beer, unless such compounds, preparations, or mixtures are unfit for use for beverage purposes and are sold solely for use for nonbeverage purposes.

(b) *Products unfit for beverage use.* Products meeting the requirement for exemption from commodity and occupational taxes under the provisions of Part 170 of this chapter shall be deemed to be unfit for beverage purposes for the purposes of this part.

§ 194.34 Sales by agencies and instrumentalities of the United States.

Unless specifically exempt by statute, any agency or instrumentality of the United States, including post exchanges, ship's stores, ship's service stores, and commissaries, or any canteen, club, mess, or similar organization operated under regulations of any such agency or instrumentality, which sells, or offers for sale, distilled spirits, wines, or beer shall pay special tax as a dealer in liquors or as a dealer in beer, as the case may be, for carrying on such business.

(72 Stat. 1340, 1343, 1347; 26 U.S.C. 5111, 5121, 5143)

§ 194.35 Warehouse receipts covering spirits.

Since the sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits, every person who sells or offers for sale warehouse receipts for spirits held or stored in a distilled spirits plant, customs bonded warehouse, or elsewhere, is required to file a special tax return and pay special tax as a wholesale dealer in liquors, or as a retail dealer in liquors, as the case may be, at the place where such warehouse receipts are sold, or offered for sale, unless exempt by the provisions of subpart L.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

Subpart D—Administrative Provisions

§ 194.41 Forms prescribed.

The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished, as indicated by the headings of the forms and the instructions thereon or issued in respect thereto, and as required by this part.

§ 194.42 Right of entry and examination.

Any internal revenue officer may enter during business hours the premises (including places of storage) of any dealer for the purpose of inspecting or examining any records or other documents required to be kept by such dealer

under this part, and any distilled spirits, wines, or beer kept or stored by such dealer on such premises.

(72 Stat. 1348; 26 U.S.C. 5146)

Subpart E—Places Subject to Special Tax

§ 194.51 Special tax liability incurred at each place of business.

Except as provided in subpart L, liability to special tax is incurred at each and every place where distilled spirits, wines, or beer are sold or offered for sale; *Provided,* That the term "place" as used in this section means the entire office, plant or area of the business in any one location under the same proprietorship; and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises shall not be deemed sufficient separation to require the payment of additional special tax, if the various divisions are otherwise contiguous.

(72 Stat. 1347; 26 U.S.C. 5143)

§ 194.52 Place of sale.

The place at which ownership of liquors is transferred, actually or constructively, is the place of sale.

(72 Stat. 1347; 26 U.S.C. 5143)

§ 194.53 Place of offering for sale.

Liquors are offered for sale (a) at the place where they are kept for sale and where a sale may be effected, or (b) at any place where sales are consummated. Liquors are not offered for sale by sending abroad an agent to take orders, or by establishing an office for the mere purpose of taking orders, provided in each case the orders received are transmitted to the principal for acceptance at the place where he holds a special tax stamp or is exempt from special tax as provided in Subpart L of this part.

(72 Stat. 1347; 26 U.S.C. 5143)

§ 194.54 Places of storage; deliveries therefrom.

Special tax is not required to be paid for warehouses and similar places which are used by dealers merely for the storage of liquors and are not places where orders for liquors are accepted. Where orders for liquors are received and duly accepted at a place where the dealer holds the required special tax stamp, the subsequent actual delivery of the liquors from a place of storage does not require the payment of special tax at such place of storage. Except as provided in §§ 194.185 and 194.186, a dealer holding a special tax stamp at a given place, who makes actual delivery of liquors from a warehouse at another place, without prior constructive delivery by the acceptance of an order therefor at the place covered by the special tax stamp, shall pay special tax at the place where ownership of the liquors is transferred.

(72 Stat. 1340, 1347; 26 U.S.C. 5113, 5143)

§ 194.55 Caterers.

Where the contract of a caterer for the furnishing of a dinner, including liquors, is made at his place of business where he holds a special tax stamp, no liability to special tax is incurred by the serving of the liquors at a different location.

(72 Stat. 1347; 26 U.S.C. 5143)

§ 194.56 Peddling.

No person shall peddle distilled spirits, wines, or beer, except as provided in §§ 194.126, 194.185, and 194.186. Persons peddling liquors and not meeting the exemptions specified in §§ 194.126, 194.185, and 194.186 are required to pay special tax at each place where sales are consummated.

(72 Stat. 1344, 1347; 26 U.S.C. 5123, 5143)

SALES IN TWO OR MORE AREAS ON THE SAME PREMISES

§ 194.57 General.

Where liquors are sold by a proprietor in two or more areas within his place of business, only one secial tax stamp is required. Where the proprietor lets to another person or persons the privilege of selling liquors in two or more areas within his place of business, whether such privilege is exercised separately or simultaneously with the proprietor or another concessionaire, each such person shall pay but one special tax.

§ 194.58 Hotels.

The proprietor of a hotel who conducts the sale of liquors throughout the hotel premises shall pay but one special tax. For example, different areas in a hotel such as banquet rooms, meeting rooms, guest rooms, or other such areas, operated by the proprietor, collectively constitute a single place of business. Where any concessionaire conducts the sale of liquors at two or more areas in a hotel, such areas shall be regarded as a single place of business, and he shall pay but one special tax.

§ 194.59 Ball park, race track, etc.; sales throughout the premises.

The proprietor of a ball park, race track, stadium, pavilion, or other similar enclosure constituting one premises, who engages in the business of selling liquors throughout such enclosure, including sales from baskets or containers by his employees in his behalf, shall pay but one special tax for such enclosure. Each concessionaire having the same privilege throughout the enclosure, whether such privilege is exercised separately or simultaneously with the proprietor or another concessionaire, or concessionaires, shall pay but one special tax for such enclosure.

(72 Stat. 1347; 26 U.S.C. 5143)

Subpart F—Each Business Taxable

§ 194.71 Different businesses of same ownership and location.

Where more than one taxable business is conducted by the same person at the same place, special tax for each business shall be paid at the rates severally prescribed, except as provided in §§ 194.24 and 194.26.

(72 Stat. 1347; 26 U.S.C. 5143)

§ 194.72 Dealer in beer and dealer in liquors at the same location.

A dealer who pays the special tax as a retail dealer in beer, begins the retail sale of beer, and thereafter, at the same location, during the same or a subsequent month, intends to begin the retail sale of distilled spirits or wine (a different business under § 194.23) shall, in addition, pay the special tax as a retail dealer in liquors before commencing the sale, or offering for sale, of distilled spirits or wine. Likewise, a dealer who has paid the special tax as a wholesale dealer in beer, and thereafter, at the same location, during the same or a subsequent month, intends to begin the wholesale sale of distilled spirits or wine (a different business under § 194.24) shall, in addition, pay the special tax as a wholesale dealer in liquors before commencing the sale, or offering for sale, of distilled spirits or wine.

(72 Stat. 1347; 26 U.S.C. 5143)

§ 194.73 Mixing cocktails.

Any dealer who mixes cocktails, or compounds any alcoholic liquors in advance of sale, except for the purpose of filling, for immediate consumption on the premises, orders received at the bar or in the expectation of the immediate receipt of such orders, shall pay special tax as a rectifier. Liquor bottles shall not be used as receptacles for such cocktails.

(72 Stat. 1338, 1347, 1374; 26 U.S.C. 5081, 5143, 5301)

Subpart G—Partnerships

§ 194.91 Liability of partners.

Any number of persons carrying on one business in partnership at any one place during any fiscal year shall be required to pay but one special tax for such business.

(72 Stat. 1347; 26 U.S.C. 5143)

§ 194.92 Addition of partners or incorporation of partnership.

Where a number of persons who have paid special tax as partners admit one or more new members to the firm or form a corporation (a separate legal entity) to take over the business, the new firm or corporation shall pay special tax before commencing business.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

§ 194.93 Formation of a partnership by two dealers.

Where two persons, each holding a special tax stamp for a business carried on by himself, form a partnership, the firm shall pay special tax to cover the business conducted by the partnership.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

§ 194.94 Withdrawal of one or more partners.

When one or more partners withdraw from a partnership which has paid special tax, the remaining partner, or partners, may file with the district director a notice of succession to the partnership business within 30 days after the change in control, as provided in § 194.169, and

carry on the same business at the same address for the remainder of the taxable period for which special tax was paid without paying additional special tax. However, where the remaining partner, or partners, do not file such timely notice of succession, they are required to pay special tax, as provided in § 194.170.

(68A Stat. 846, 72 Stat. 1347; 26 U.S.C. 7011, 5143)

Subpart H—Payment of Special Tax

§ 194.101 Special tax rates.

Special (occupational) taxes are imposed on dealers in liquors and beer at the following rates—

(a) *Annual (fiscal year) rates:*

Wholesale dealer in liquors (spirits, wines, beer)	$255.00
Wholesale dealer in beer (beer only)	123.00
Retail dealer in liquors (spirits, wines, beer)	54.00
Retail dealer in beer (beer only)	24.00

(b) *Monthly (calendar month) rate:*

Limited retail dealer (wine, beer)	$2.20

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

§ 194.102 Date special tax is due.

Special taxes shall be paid on or before July 1 of each year, or before engaging in business.

(72 Stat. 1346; 26 U.S.C. 5142)

§ 194.103 Computation of special tax.

In the case of a person engaged in a business subject to special tax during the month of July, the special tax liability shall be reckoned for the entire fiscal year beginning July 1 and ending June 30 following. Where business is commenced subsequent to July, the liability shall be reckoned proportionately, from the first day of the month in which the liability to a special tax commenced, to June 30 following. For example, a person commencing business in August is liable to special tax for 11 months, or eleven-twelfth of the annual tax.

(72 Stat. 1346; 26 U.S.C. 5142)

§ 194.104 Filing return and payment of special tax.

(a) *Time for filing return.* Every person who intends to engage in a business subject to special tax under the provisions of this part shall, on or before the date such business is commenced, render a special tax return, Form 11, with remittance of tax to the district director of the district in which the business is to be carried on. The Form 11 and remittance of a dealer continuing business into a new fiscal year shall be rendered on or before July 1 of the new fiscal year.

(b) *Returns filed by mail.* Where the return and remittance are received in the mail and the United States postmark on the cover shows that it was deposited in the mail in the United States within the time prescribed for filing, or within any extension of such time, in an envelope or other appropriate wrapper which was properly addressed with postage prepaid, the return shall be considered as timely filed. In the event the last day for filing the return falls on a Saturday, Sunday, or legal holiday (of the District of Columbia or on a statewide legal holiday of the particular State where such return is required to be filed) a postmark showing the next succeeding day which is not a Saturday, Sunday, or such legal holiday, shall be considered evidence of timely filing. If the postmark is not legible, the sender has the burden of proving the date when the postmark was made. When registered mail is used the date of registration shall be accepted as the postmark date.

(68A Stat. 732, 749, 72 Stat. 1346; 26 U.S.C. 6011, 6071, 5142)

§ 194.105 Method of payment.

Payment of special tax shall be made in cash, or by check or money order payable to "Internal Revenue Service." If a check or money order so tendered is not honored when presented for payment, the person who tendered such check or money order shall remain liable for the payment of the special tax, and for all penalties and additions, to the same extent as if the check or money order had not been tendered. In addition, unless the person who tendered the check or money order can show that such check or money order was issued in good faith, and with reasonable cause to believe that it would be duly paid, there shall be paid as penalty an amount equal to 1 percent of the amount of the check or money order, except that if the amount of the check or money order is less than $500, the penalty shall be $5, or the amount of the check or money order, whichever is lesser.

(68A Stat. 777, 826; 26 U.S.C. 6311, 6657)

Special Tax Return, Form 11

§ 194.106 Data required.

Special tax returns shall be made on Form 11, which may be procured from the district director of internal revenue. The dealer shall disclose in the spaces provided on the return—

(a) Where the dealer is an individual or a corporation, the true name of such individual or corporation;

(b) In the case of a partnership, the true name of each and every person comprising the partnership;

(c) Where a trade name is used, the exact trade name under which the business is conducted, in addition to information required in paragraphs (a) or (b) of this section;

(d) The exact location of the place of business, by name and number of building or street or, where these do not exist, by some particularization in addition to the post office address;

(e) The kind of liquor business carried on, as classified in §§ 194.23–194.27;

(f) All other information provided for on the form.

(68A Stat. 732, 846; 26 U.S.C. 6011, 7011)

§ 194.107 Execution of Form 11.

The return of an individual proprietor shall be signed by the proprietor; the return of a partnership shall be signed by a member of the firm; and the return of a corporation shall be signed by a duly authorized officer thereof: *Provided,* That any individual, partnership, or corporation may appoint an agent to sign in his behalf. In each case, the person signing the return shall designate his capacity as "individual owner," "member of firm," "agent," "attorney-in-fact" or, in the case of a corporation, the title of the officer. Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a dealer by reason of death, insolvency, or other circumstances, shall indicate the fiduciary capacity in which they act. Returns signed by persons, as agents or attorneys-in-fact, will not be accepted unless, in each instance, the principal named on the return has executed a power of attorney authorizing such person to sign the return, and such power of attorney is filed with the district director. Form 11 shall be verified by a written declaration that the return has been executed under the penalties of perjury.

(68A Stat. 748, 749; 26 U.S.C. 6061, 6065)

§ 194.108 Extensions of time for filing returns.

The district director may, before the tax is due and payable, grant such reasonable extension of time for the filing of Form 11 as he deems proper. Application for extension of time shall be made in writing to the district director of the district in which the business is located, and shall contain a full recital of the causes of delay. Except in the case of taxpayers who are abroad, no such extention shall be more than 6 months.

(68A Stat. 751; 26 U.S.C. 6081)

§ 194.109 Penalty for failure to file return.

Any person required by this part to file a return on Form 11 who fails to file the return on or before the last date prescribed in § 194.104 shall pay, as an addition to the tax, a delinquency penalty, unless it is shown that such failure is due to reasonable cause and not due to willful neglect: *Provided,* That where an extension of time for the filing of the return has been granted under § 194.108, the taxpayer shall not be held to be delinquent until he has failed to file the return within such extension of time. The delinquency penalty for failure to file the return on or before the last date prescribed (determined with regard to any extension of time for filing) shall be 5 percent of the amount required to be shown as tax on the return if the failure is for not more than one month; with an additional 5 percent for each additional month or fraction thereof during which such delinquency continues, but not more than 25 percent in the aggregate.

(68A Stat. 821; 26 U.S.C. 6651)

§ 194.110 Interest on unpaid tax.

Interest at the rate of 6 percent per annum is due on delinquent special tax from the date the tax is required to be paid to the date paid.

(68A Stat. 817; 26 U.S.C. 6601)

Delinquent Returns

§ 194.111 Delinquency penalty.

In every case where a special tax return is not filed at the time prescribed in

§ 194.104, or within any extension of time granted under § 194.108, the delinquency penalty specified in § 194.109 will be asserted and collected unless a reasonable cause for delay in filing the return is clearly established. A dealer who believes the circumstances which delayed his filing of the return are reasonable, and who desires to have the delinquency penalty waived, shall submit with his return a written statement under the penalties of perjury, affirmatively showing all of the circumstances alleged as reasonable causes for delay. If such return and statement are submitted to the district director, the district director shall determine whether the delay in filing was due to reasonable cause; if delivered to an internal revenue officer working under supervision of the assistant regional commissioner, the assistant regional commissioner shall make the determination. Any reason which appeals to a man of ordinary prudence and intelligence as a reasonable cause for the delay and which clearly shows no willful intent to avoid the provisions of the taxing statutes, or gross negligence, will be accepted as reasonable. Mere ignorance of the law will not be considered a reasonable cause.

(68A Stat. 821; 26 U.S.C. 6651)

Subpart I—Special Tax Stamps

§ 194.121 Issuance of stamps.

Upon receipt of a return properly executed on Form 11, together with a remittance in the proper amount, the district director will issue an appropriately designated stamp to the taxpayer. Special tax stamps will not be issued until the tax is fully paid.

(72 Stat. 1348; 26 U.S.C. 5144)

§ 194.122 Receipt in lieu of stamp prohibited.

No receipt shall be issued in lieu of a special tax stamp. A receipt may be given only pending the issuance of a stamp, or where the tax liability relates to a prior fiscal year.

(68A Stat. 778; 26 U.S.C. 6314)

§ 194.123 Stamps covering business in violation of State law.

District directors are without authority to refuse to issue a special tax stamp to a liquor dealer engaged in business in violation of State law. The stamp is not a Federal permit or license, but is merely a receipt for the tax. The stamp affords the holder no protection against prosecution for violation of State law.

(72 Stat. 1348; 26 U.S.C. 5145)

§ 194.124 Stamps for passenger trains, aircraft, and vessels.

Special tax stamps may be issued to persons who will carry on the business of retail dealers in liquors or retail dealers in beer, on trains, aircraft, boats or other vessels, engaged in the business of carrying passengers. The stamps shall be issued in general terms "In the United States." A dealer holding a stamp for such business may transfer it from one passenger carrier to another on which he conducts his business, without registering the transfer with a district director, and he may conduct such business throughout the passenger carrying train, aircraft, boat or other vessel, to which the stamp is transferred, and on which posted.

(72 Stat. 1344, 1347; 26 U.S.C. 5123, 5143)

§ 194.125 Carriers not engaged in passenger service.

Except as provided in § 194.126, a special tax stamp may not be issued for the retailing of liquor on any railroad train, aircraft, or boat that is not engaged in the business of carrying passengers.

(72 Stat. 1344, 1347; 26 U.S.C. 5123, 5143)

§ 194.126 Stamps for supply boats or vessels.

Special tax stamps may be issued to persons carrying on the business of a retail dealer in liquor or a retail dealer in beer on supply boats or vessels operated by them, when such persons operate from a fixed address in a port or harbor and supply exclusively boats or other vessels, or persons thereon, at such port or harbor. Any person desiring to obtain a special tax stamp for such business shall specify on the Form 11 filed with the district director, or on an attachment thereto, (a) that the business will consist of supplying exclusively boats, vessels, or persons thereon, (b) the name of the port or harbor at which the business is to be carried on, and (c) the fixed address from which operations are to be conducted. Where such sales are to be made from two or more supply boats or vessels, the dealer shall pay special tax and obtain a special tax stamp for each boat or vessel on which he will make such sales simultaneously; however, the dealer may transfer any such stamp from any boat or vessel on which he discontinues such sales to any other boat or vessel on which he proposes to conduct such business, without registering the transfer with a district director. Special tax stamps issued for such retailing of liquors shall bear, in addition to the dealer's occupational classification, the phrase "on supply boats," and in the lower margin the notation, "Covers supplying exclusively of boats or vessels, or persons thereon, at the Port (or Harbor) of _____."

(72 Stat. 1344, 1347; 26 U.S.C. 5123, 5143)

§ 194.127 Stamps for retail dealers "At Large."

A retail dealer in liquors or a retail dealer in beer whose business requires him to travel from place to place in different States of the United States, such as those who sell at carnivals or circuses, may obtain a special tax stamp "At Large" covering his activities throughout the United States with the payment of but one special tax as a retail dealer in liquors or a retail dealer in beer, as required by his business. A dealer desiring such stamp shall state on his special tax return, Form 11, or on an attached statement, the nature of his business and the reason he requires a special tax stamp "At Large." Unless satisfied that the business of the dealer requires him to travel in more than one State, the district director will not issue a stamp "At Large" to the applicant.

(72 Stat. 1344; 26 U.S.C. 5123)

Stamps for Dealers in Wines Only, or Wines and Beer Only

§ 194.128 General.

Retail and wholesale dealers in liquors who sell or offer for sale wines only, or wines and beer only, may obtain stamps as retail or wholesale dealers in liquors, as the case may be, under the following designations upon application and payment of special tax at the annual (fiscal year) rates indicated:

Retail dealer in wines	$54.00
Retail dealer in wines and beer	54.00
Wholesale dealer in wines	255.00
Wholesale dealer in wines and beer	255.00

A retail dealer who holds a stamp under one of the designations above may make retail sales of distilled spirits, and a wholesale dealer who holds a stamp under one of the wholesale dealer designations may make sales of distilled spirits to dealers or others, without paying additional special tax. Dealers holding such stamps are subject to all provisions of internal revenue law and regulations relating to retail dealers in liquors and wholesale dealers in liquors.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

§ 194.129 Stamps not exchangeable.

The holders of special tax stamps as dealers in wines only, or dealers in wine and beer only, may not exchange them for the regular retail and wholesale liquor dealer stamps. In the absence of specific demand or application for such stamps, district directors shall issue the regular stamps to persons paying special tax as retail or wholesale dealers in liquors.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

Medicinal Spirits Dealer Stamps

§ 194.130 Stamps for drug stores and pharmacies selling through licensed pharmacists.

Proprietors of retail drug stores and pharmacies making retail sales of distilled spirits through duly licensed pharmacists, may procure stamps under the designation of "Medicinal Spirits Dealer" upon application and payment of special tax at the $54 annual rate. The holders of such stamps are subject to all provisions of internal revenue laws relating to retail dealers in liquors. District directors shall, in the absence of specific demand or application for such stamps, issue the regular retail liquor dealer special tax stamps.

(72 Stat. 1343; 26 U.S.C. 5121)

Stamp To Be Posted

§ 194.131 General.

A dealer shall conspicuously display his special tax stamp in his place of business. A dealer holding a special tax stamp as a retail dealer in liquors or a retail dealer in beer "At Large" or "In the United States" shall place and keep the stamp conspicuously posted where he is conducting such business.

(68A Stat. 831; 26 U.S.C. 6806)

MISSING STAMPS

§ 194.132 Lost or destroyed.

If a special tax stamp has been lost or destroyed, the dealer shall immediately notify the district director. A "Certificate in Lieu of Lost or Destroyed Special Tax Stamp" will be issued to the dealer who submits an affidavit showing to the satisfaction of the district director that the stamp was lost or destroyed. The certificate shall be posted in lieu of the stamp, otherwise, liability for failure to post the stamp will be incurred.

§ 194.133 Seizure by State authorities.

Where a stamp designated "Retail Dealer in Liquors" is seized by State authorities because it does not conform to the dealer's local license or permit (wine, or wine and beer), the district director will, on request, issue a "Certificate in Lieu of Lost or Destroyed Special Tax Stamp" to show that the dealer has paid special tax as a "Retail Dealer in Wine" or "Retail Dealer in Wines and Beer," as the case may require.

CORRECTION OF ERRORS ON SPECIAL TAX STAMPS

§ 194.134 Errors disclosed by taxpayers.

On receipt of a special tax stamp, the dealer will examine it to insure that the name and address are correctly stated; if not, the taxpayer will return the stamp to the district director with a statement showing the nature of the error and the correct name or address. The district director, on receipt of such stamp and statement, will compare the data on the stamp with that on the Form 11 in his files, correct the error if made in his office, and return the stamp to the taxpayer. However, if the error was in the taxpayer's preparation of the Form 11, the district director will require such taxpayer to file a new Form 11, designated "Amended Return," setting forth the taxpayer's correct name and address, and a statement explaining the error on the original Form 11. On receipt of the amended Form 11, and a satisfactory explanation of the error, the district director will make the proper correction on the stamp and return it to the taxpayer.

§ 194.135 Errors discovered on inspection.

When an internal revenue officer discovers a material error on a special tax stamp in the name, ownership, or address of the dealer, he will secure from the dealer a new Form 11, designated "Amended Return," showing correctly all of the information required in § 194.106 and, in the body of the form or in an attachment thereto, a statement of the reason for requesting correction of the stamp. On receipt of the amended return and an acceptable explanation for the error, the officer will make the proper correction on the stamp and return it to the taxpayer.

STAMPS FOR INCORRECT PERIOD OR INCORRECT LIABILITY

§ 194.136 General.

Where a dealer through error has filed a return and paid special tax for an incorrect period of liability or incorrect class of business, he shall prepare a correct Form 11 for each taxable year involved, designating it as an "Amended Return," and submit the amended return, or returns, with remittance for the total tax and additions to the tax (delinquency penalties and interest) incurred, to the district director or, if the error is discovered by an internal revenue officer, to such officer: *Provided,* That, subject to the limitations imposed by section 6511, I.R.C., the tax (including additions thereto) paid for the incorrect period of liability or incorrect class of business may be allowed as a credit against the correct tax (including any additions thereto) as provided in § 194.137 or § 194.139 on surrender of the incorrect stamp or stamps with the amended return or returns noted to show that credit is requested. Tax (including additions thereto) paid for a stamp for an incorrect period of liability or incorrect class of business which is not credited as provided in § 194.137 or § 194.139, including any creditable tax and additions thereto in excess of the correct tax (including additions thereto), may be refunded pursuant to the provisions of Subpart M of this part where the dealer has filed a correct return on Form 11 with remittance for the correct amount of tax (including any additions thereto). A new stamp will be issued only in respect of a current period of liability.

(68A Stat. 732; 26 U.S.C. 6011)

§ 194.137 Credit by an internal revenue officer.

Where the internal revenue officer discovers that tax was paid for an incorrect class of business for a correct period of liability and examination of the incorrect stamp discloses that no additions to the tax were collected, he may, where the correct tax (including any additions thereto) exceeds the incorrect tax paid, credit the tax paid against such correct tax on receipt by him of an amended Form 11, as provided in § 194.136, remittance of the difference between the tax paid and the correct tax plus any additions thereto, and the incorrect stamp. The district director will issue a correct stamp if the additional tax collected is for a current year.

(68A Stat. 791, 808; 26 U.S.C. 6402, 6511)

§ 194.138 Receipt for taxes on Form 809.

Every internal revenue officer to whom a dealer delivers a remittance in payment of special tax and any additions thereto shall issue to the dealer a receipt on Form 809 for the tax (penalties and interest, if any) covered by the remittance.

§ 194.139 Credit by district director.

The district director may credit the tax (including additions thereto) paid for an incorrect stamp on receipt by him of an amended return as provided in § 194.136 together with the incorrect stamp surrendered for credit and remittance for the difference between such incorrect tax and the correct tax (including any additions thereto) and, if the liability is for the current year, issue a correct stamp. Where the tax (and additions thereto) paid for the incorrect stamp surrendered exceeds the amount due, the district director shall advise the dealer to file claim for refund of such excess on Form 843. The applicable provisions of subpart M shall govern claims for refund.

(68A Stat. 791, 808; 26 U.S.C. 6402, 6511)

RECORD 10

§ 194.140 Public list of taxpayers.

The district director shall maintain and keep in his office on Record 10, for public inspection, a list of all persons who have paid special taxes within his district, and shall state thereon the time, place, and business for which such special taxes have been paid.

(68A Stat. 756; 26 U.S.C. 6107)

§ 194.141 Use of Record 10.

All persons shall be entitled to inspect Record 10 in the district director's office, at reasonable and proper times, and are not prohibited from copying the names and addresses of special-tax payers, but no person shall use the record to the extent of interfering with the district director's use thereof, or unduly to the exclusion of other persons.

(68A Stat. 756; 26 U.S.C. 6107)

§ 194.142 Furnishing copy of Record 10.

Upon application of any prosecuting officer of any State, county, or municipality, the district director shall furnish a certified copy of Record 10, or such portions thereof as may be requested, for which a fee of $1 for each 100 words or fraction thereof in the copy or copies so requested shall be charged.

(68A Stat. 756; 26 U.S.C. 6107)

Subpart J—Change of Location

§ 194.151 Amended return, Form 11; endorsement on stamp.

A dealer who, during the taxable period for which special tax was paid, removes his business to a place other than that specified on his original special tax return on Form 11, and stated on his special tax stamp, shall, within 30 days from the date he begins to carry on such business at the new location, register the change with the district director who issued the stamp, by filing a new return on Form 11, designated "Amended Return," setting forth the time when and the place to which such removal was made, and shall surrender the special tax stamp to the district director for endorsement of the change in location: *Provided,* That the dealer may deliver the amended return and the stamp at any internal revenue branch office, or to any internal revenue officer inspecting the business, in lieu of submitting them directly to the district director. The district director or the internal revenue officer receiving such return and stamp shall, if the return is submitted to him within the 30-day period, enter the proper endorsement on the stamp and return it to the taxpayer.

(68A Stat. 846, 72 Stat. 1347; 26 U.S.C. 7011, 5143)

§ 194.152 Failure to register change of address within 30 days.

A dealer who removes his business to a place other than that stated on his special tax stamp and fails to register such removal with the district director within 30 days from the date he begins to carry on such business at the new location is required to pay special tax, and interest on the amount required to be shown on the return as tax, just as if he were engaging in business for the first time (as to liability for delinquency penalty see § 194.109). The amount of tax, delinquency penalty, and interest to be paid shall be computed as provided in §§ 194.103, 194.109, and 194.110, respectively.

(68A Stat. 846, 72 Stat. 1347; 26 U.S.C. 7011, 5143)

§ 194.153 Certificate in lieu of lost or destroyed special tax stamp.

The provisions of this part shall apply to certificates in lieu of lost or destroyed special tax stamps issued to taxpayers under the provisions of §§ 194.132 and 194.133.

Subpart K—Change in Proprietorship or Control

§ 194.161 Sale of business.

A special tax stamp is a receipt for tax, personal to the one to whom issued, and is not transferable from one dealer to another. Where there occurs a change in the proprietorship of a business for which special tax has been paid, the successor shall pay special tax and procure a special tax stamp for such business, except as provided in § 194.169.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

§ 194.162 Incorporation of business.

Where an individual or a firm engaged in business requiring payment of special tax forms a corporation to take over and conduct the business, the corporation (a separate legal entity) shall pay special tax and procure a stamp in its own name.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

§ 194.163 New corporation.

Where a new corporation is formed to take over and conduct the business of one or more corporations which have paid special tax, the new corporation shall pay special tax and procure a stamp in its own name.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

§ 194.164 Stockholder continuing business of corporation.

A special tax stamp held by a corporation as a dealer in liquors, or as a dealer in beer, cannot cover the same business carried on by one or more of its stockholders after dissolution of the corporation.

(72 Stat. 1340, 1843; 26 U.S.C. 5111, 5121)

§ 194.165 Change in trade name or style or business.

A dealer who has paid the special tax for his business at a given location is not required to pay additional special tax by reason of a mere change in the trade name or style under which he conducts such business, or by reason of a change in management which involves no change in proprietorship of the business.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

§ 194.166 Change of name or increase in capital stock of a corporation.

Additional special tax is not required by reason of a change of name or increase in the capital stock of a corporation if a new corporation is not created under the laws of the State of incorporation.

(72 Stat. 1340, 1343; 26 U.S.C. 5111, 5121)

§ 194.167 Change in ownership of capital stock.

Additional special tax is not required by reason of the sale or transfer of all or a controlling interest in the capital stock of a corporation.

§ 194.168 Change in membership of unincorporated club.

Additional special tax is not required of an unincorporated club by reason of changes in membership, where such changes do not result in the dissolution thereof and the formation of a new club.

§ 194.169 Change of control, persons having right of succession.

Certain persons other than the special taxpayer may, without paying additional special tax, secure the right to carry on the same business at the same address for the remainder of the taxable period for which the special tax was paid. Such persons are—

(a) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased dealer;

(b) A husband or wife succeeding to the business of his or her living spouse;

(c) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors; and

(d) The partner or partners remaining after death or withdrawal of a member of a partnership.

In order to secure such right, the person or persons continuing the business shall file with the district director who issued the stamp, within 30 days from the date on which the successor begins to carry on the business, an amended special tax return on Form 11, showing the basis of the succession, and shall surrender the unexpired special tax stamp for endorsement of the change in control: *Provided*, That the person succeeding to the business may deliver the amended return and stamp at any internal revenue branch office, or to any internal revenue officer inspecting the business, in lieu of submitting them to the district director. If the applicant has the right of succession and the return and stamp are submitted on time, the district director or the internal revenue officer receiving them will enter the proper endorsement on the stamp and return it to the successor.

(68A Stat. 846, 72 Stat. 1347; 26 U.S.C. 7011, 5143)

§ 194.170 Failure to perfect right of succession within 30 days.

A person who would have had the privilege of succeeding, as provided in § 194.169, to a business for which the special tax had been paid for the remainder of the taxable period but failed to register such succession within 30 days from the date he began to carry on such business is required to pay special tax, and interest on the amount required to be shown on the return as tax, just as if he were engaging in a new business (as to liability for delinquency penalty see § 194.109). The amount of tax, delinquency penalty, and interest to be paid shall be computed as provided in §§ 194.103, 194.109, and 194.110.

(68A Stat. 846, 72 Stat. 1347; 26 U.S.C. 7011, 5143)

Subpart L—Exemptions and Exceptions

PERSONS EXEMPT FROM LIQUOR AND BEER DEALER SPECIAL TAXES

§ 194.181 Single sale of liquors or warehouse receipts.

A single sale of distilled spirits, wines, or beer, or a single sale of one or more warehouse receipts for distilled spirits, unattended by circumstances showing the person making the sale to be engaged in the business, does not subject the vendor to special tax.

(72 Stat. 1340, 1343, 1346; 26 U.S.C. 5111, 5121, 5142)

§ 194.182 Proprietors of distilled spirits plants selling certain distilled spirits or wines.

(a) *Exemption of proprietor.* No proprietor of a distilled spirits plant shall be required to pay special tax as a wholesale or retail dealer in liquors on account of the sale at his principal business office as designated in writing to the assistant regional commissioner, or at his distilled spirits plant, of distilled spirits or wines which, at the time of sale, are stored at his distilled spirits plant, or had been removed from such plant to a taxpaid storeroom the operations of which are integrated with the operations of such plant and which is contiguous or adjacent to, or in the immediate vicinity of, such plant. However, no such proprietor shall have more than one place of sale, as to each plant, that shall be exempt from special tax under this section.

(b) *Place of exemption.* Unless the exemption is claimed elsewhere, it will be presumed that the exemption is claimed at the plant where the spirits or wines are stored. If the proprietor wishes to be exempt from payment of special tax with respect to sales at his principal business office rather than for sales at his plant, he shall notify the assistant regional commissioner of the region in which the plant is located of his intention. Such notice shall be in writing, on letter size paper and shall be submitted in triplicate. On approval, two copies will be returned to the proprietor, one to be filed at the principal office, and the original will be retained by the assistant regional commissioner. Where the exemption is claimed for a place other than the plant, special tax shall be paid at the plant if sales are made thereat.

(72 Stat. 1340; 26 U.S.C. 5113)

§ 194.183 Proprietors of bonded wine cellars selling certain wines or wine spirits.

(a) *Exemption of proprietor.* No proprietor of a bonded wine cellar shall be required to pay special tax as a wholesale or retail dealer in liquors on account of the sale at his principal business office as designated in writing to the assistant regional commissioner, or at his bonded wine cellar, of wines or wine spirits which, at the time of sale, are stored at his bonded wine cellar, or had been removed from such bonded wine cellar to a taxpaid storeroom the operations of which are integrated with the operations of such bonded wine cellar and which is contiguous or adjacent to, or in the immediate vicinity of, such bonded wine cellar. However, no such proprietor shall have more than one place of sale, as to each bonded wine cellar, that shall be exempt from special tax under this section.

(b) *Place of exemption.* Unless the exemption is claimed elsewhere, it will be presumed that the exemption is claimed at the bonded wine cellar where the wines or wine spirits are stored. If the proprietor wishes to be exempt from special tax with respect to sales at his principal office rather than for sales at his bonded wine cellar, he shall notify the assistant regional commissioner of the region in which the bonded wine cellar is located of his intention. Such notice shall be in writing, on letter size paper and shall be submitted in triplicate. On approval two copies will be returned to the proprietor, one to be filed at the principal office, and the original will be retained by the assistant regional commissioner. Where the exemption is claimed for a place other than the bonded wine cellar, special tax shall be paid at the bonded wine cellar if sales are made thereat.

(c) *Exception.* Where the proprietor of a bonded wine cellar consummates sales of wines to other dealers at the purchasers' places of business, through a delivery route salesman or otherwise, the proprietor of the bonded wine cellar is required to pay special tax as a wholesale dealer in liquors (or wines) at each place from which he conducts such selling operations.

(72 Stat. 1340; 26 U.S.C. 5113)

§ 194.184 Proprietors of breweries selling beer stored at their breweries.

(a) *Exemption of proprietor.* No proprietor of a brewery shall be required to pay special tax as a wholesale or retail dealer in beer on account of the sale at his principal business office as designated in writing to the assistant regional commissioner, or at his brewery, of beer which, at the time of sale, is stored at his brewery, or had been removed from such brewery to a taxpaid storeroom the operations of which are integrated with the operations of such brewery and which is contiguous or adjacent to, or in the immediate vicinity of, such brewery. However, no such proprietor shall have more than one place of sale, as to each brewery, that shall be exempt from special tax under this section.

(b) *Place of exemption.* Unless the exemption is claimed elsewhere, it will be presumed that the exemption is claimed at the brewery where the beer is stored. If the proprietor wishes to be exempt from special tax with respect to sales at his principal office rather than for sales at his brewery, he shall notify the assistant regional commissioner of the region in which the brewery is located of his intention. Such notice shall be in writing, on letter size paper and shall be submitted in triplicate. On approval, two copies will be returned to the proprietor, one to be filed at the principal office, and the original will be retained by the assistant regional commissioner. Where the exemption is claimed for a place other than the brewery, special tax shall be paid at the brewery if sales are made thereat.

(c) *Exception.* Where the proprietor of a brewery consummates sales of beer to dealers at the purchasers' places of business (through delivery route salesmen or otherwise), such proprietor is required to pay special tax as a wholesale dealer in beer at each place from which he conducts such selling operations.

(72 Stat. 1340; 26 U.S.C. 5113)

§ 194.185 Wholesale dealers in liquors consummating sales of wines or beer at premises of other dealers.

(a) *Sales of wines.* Any wholesale dealer in liquors (including the proprietor of a bonded wine cellar) who has paid special tax as a wholesale dealer in liquors for the place from which he conducts his selling operations may consummate sales of wines to other wholesale or retail dealers in liquors, or to limited retail dealers, at the purchasers' places of business without being required to pay additional special tax on account of such sales.

(b) *Sales of beer.* Any wholesale dealer in liquors who has paid the tax as provided in paragraph (a) of this section may also consummate sales of beer to wholesale or retail dealers in beer, to wholesale or retail dealers in liquors, or to limited retail dealers, at the purchasers' places of business without being required to pay additional special tax on account of such sales.

(72 Stat. 1340; 26 U.S.C. 5113)

§ 194.186 Wholesale dealers in beer consummating sales at premises of other dealers.

Any dealer (including the proprietor of a brewery) who has paid special tax as a wholesale dealer in beer for the place from which he conducts his selling operations may consummate sales of beer (but not wines or distilled spirits) to other dealers at the purchasers' places of business without being required to pay additional special tax on account of such sales.

(72 Stat. 1340; 26 U.S.C. 5113)

§ 194.187 Hospitals.

Hospitals and similar institutions furnishing liquors to patients are not required to pay special tax, provided no specific or additional charge is made for the liquors so furnished.

PERSONS WHO ARE NOT DEALERS IN LIQUORS OR BEER

§ 194.188 Persons making casual sales.

Certain persons making casual sales of liquors are not liquor or beer dealers within the meaning of the statute; they are as follows:

(a) Administrators, executors, receivers, and other fiduciaries who receive distilled spirits, wines, or beer in their fiduciary capacities and sell such liquors in one parcel, or at public auction in parcels of not less than 20 wine gallons;

(b) Creditors who receive distilled spirits, wines, or beer as security for, or in payment of, debts and sell such liquors in one parcel, or at public auction in parcels of not less than 20 wine gallons;

(c) Public officers or court officials who levy on distilled spirits, wines, or beer under order or process of any court or magistrate and sell such liquors in one parcel, or at public auction in parcels of not less than 20 wine gallons; or,

(d) A retiring partner, or representative of a deceased partner, who sells distilled spirits, wines, or beer to the incoming or remaining partner, or partners, of a partnership.

Persons making such sales are not required to pay special tax, or keep the records or reports required of dealers in Subpart O of this part.

(72 Stat. 1340; 26 U.S.C. 5113)

§ 194.189 Agents, auctioneers, brokers, etc., acting on behalf of others.

Certain persons may sell liquors as agents or employees of others, or receive and transmit orders therefor to a dealer, without being considered liquor or beer dealers on account of such activities; they are as follows—

(a) Auctioneers who merely sell liquors at auction on behalf of others,

(b) Agents or brokers who merely solicit orders for liquors in the name of a principal, but neither stock nor deliver the liquors for which orders are taken,

(c) Employees who merely sell liquors on behalf of their employers, and

(d) Retail dealers in liquors or retail dealers in beer who merely receive and transmit to a wholesale dealer orders for liquors or beer to be billed, charged, and shipped to customers by such wholesale dealer.

Such persons, who have no property rights in the liquors or beer sold, may make collections for their principals and receive commissions for their services, or guarantee the payment of accounts, without being required to pay special tax. In all such cases, however, the principal is required to pay special tax at each place where sales are consummated, unless he is exempt therefrom under the provisions of this Subpart L of this part.

§ 194.190 Apothecaries or druggists selling medicines and tinctures.

Apothecaries and druggists who use wines or spirituous liquors for compounding medicines and in making tinctures which are unfit for use for beverage purposes are not required to pay special tax as dealers in liquors by reason

of the sale of such compounds or tinctures for nonbeverage purposes.

(72 Stat. 1328; 26 U.S.C. 5025)

§ 194.191 Persons selling products unfit for beverage use.

(a) *Vendors not deemed dealers in liquors or beer.* No person selling or offering for sale for nonbeverage purposes products classed as unfit for beverage use under the provisions of Part 170 of this chapter shall be deemed, solely by reason of such sales, to be a dealer in liquors.

(b) *Restrictions.* Any person who sells or offers for sale any nonbeverage products for use, or for sale for use, for beverage purposes, or who sells any of such products under circumstances from which it might reasonably appear that it is the intention of the purchaser to procure the same for sale or use for beverage purposes, shall pay special tax as a wholesale or retail dealer in liquors or as a wholesale or retail dealer in beer, as the case may be.

§ 194.192 Retail dealer selling in liquidation his entire stock.

No retail dealer in liquors or retail dealer in beer, selling in liquidation his entire stock of liquors in one parcel, or in parcels embracing not less than his entire stock of distilled spirits, of wines, or of beer, which parcels may contain a combination of any or all such liquors, to any other dealer shall be deemed to be a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be, by reason of such sale or sales. A retail dealer making such sale or sales is not required to keep records or submit reports thereof.

(72 Stat. 1340; 26 U.S.C. 5113)

§ 194.193 Persons returning liquors for credit, refund, or exchange.

No retail dealer in liquors or beer, or other person, shall be deemed to be a wholesale dealer in liquors or a wholesale dealer in beer, as defined in this part, by reason of his bona fide return of distilled spirits, wines, or beer, as the case may be, to the dealer from whom purchased (or to the successor of such vendor's business or line of merchandise) for credit, refund, or exchange, and the giving of such credit, refund, or exchange shall not be deemed to be a purchase within the meaning of section 5117, I.R.C., or of § 194.211 of this part. Except in the case of wholesale dealers in liquors required to keep records of their transactions under §§ 194.225 and 194.226, or retail dealers required to keep records under §194.239, persons returning liquors as provided herein are not required to keep records or submit reports of such transactions.

(72 Stat. 1340, 1343; 26 U.S.C. 5113, 5117)

Subpart M—Refund of Special Taxes

§ 194.201 Claims.

Claims for abatement of assessment of special tax (including penalties and interest), or for refund of an overpayment of special tax (including interest and penalties), shall be filed on Form 843, in duplicate, with the district director. Each claim shall set forth in detail each ground on which it is made and shall contain facts sufficient to apprise the assistant regional commissioner of the exact basis thereof. If the claim is for refund of special tax for which a stamp was issued, such stamp shall be attached to and made a part of the claim.

(68A Stat. 791, 808; 26 U.S.C. 6402, 6511)

§ 194.202 Time limit on filing of claim.

No claim for the refund of a special tax or penalty shall be allowed unless presented within 3 years next after the payment of such tax or penalty.

(68A Stat. 808; 26 U.S.C. 6511)

§ 194.203 Discontinuance of business.

A dealer who for any reason discontinues business is not entitled to refund for the unexpired portion of the fiscal year for which the special tax stamp was issued.

(72 Stat. 1346; 26 U.S.C. 5142)

§ 194.204 Dealer in beer who sells distilled spirits or wines.

A person who through error pays special tax as a dealer in beer and who at the time is liable as a dealer in liquors on account of sales of distilled spirits or wines in addition to beer, and thereafter pays the special tax as a dealer in liquors for the same location and taxable period (without receiving tax credit for the special tax paid as a dealer in beer), may file a claim for refund of the special tax as a dealer in beer.

(68A Stat. 791, 808; 26 U.S.C. 6402, 6511)

§ 194.205 Dealer in liquors who actually sells only beer.

A person who through error pays special tax as a dealer in liquors but who actually sells or offers for sale beer only, and later during the same or a subsequent month pays the special tax as a dealer in beer for the same address and taxable period, may file claim and be allowed refund of the special tax paid as a dealer in liquors.

(68A Stat. 791; 26 U.S.C. 6402)

Subpart N—Restrictions Relating to Purchases of Distilled Spirits

§ 194.211 Unlawful purchases of distilled spirits.

It is unlawful for any dealer to purchase distilled spirits for resale from any person other than—

(a) A dealer who has paid special tax as a wholesale dealer in liquors at the place where the distilled spirits are purchased;

(b) A wholesale dealer whose place of business comes within the exemptions provided by § 194.151 for changes in location and § 194.169 for changes in control;

(c) The proprietor of a distilled spirits plant who is exempt from special tax as a dealer at the place where the distilled spirits are purchased;

(d) A retail liquor store operated by a State, a political subdivision thereof, or the District of Columbia, which is not required to pay special tax as a wholesale dealer in liquors as provided in § 194.31;

(e) A person not required to pay special tax as a wholesale liquor dealer, as provided in §§ 194.188–194.190 and 194.192–194.193.

(72 Stat. 1343; 26 U.S.C. 5117)

Subpart O—Prescribed Records and Reports, and Posting of Signs

WHOLESALE DEALERS' RECORDS AND REPORTS

§ 194.221 General requirements as to distilled spirits.

Except as provided in §§ 194.223 and 194.224, every wholesale dealer in liquors shall, daily, prepare records of the physical receipt and disposition of distilled spirits by him, and shall, daily, prepare a recapitulation record showing the total wine gallons if in bottles, or proof gallons if in packages, of distilled spirits received and disposed of during the day. Every wholesale dealer in liquors shall submit on Forms 52A and 52B daily or periodic reports, prepared from his records, of the physical receipt and disposition of distilled spirits by him: *Provided,* That upon application, the assistant regional commissioner may relieve a dealer from the requirement of preparing and submitting such daily or periodic reports on Forms 52A and 52B until otherwise notified, when the assistant regional commissioner finds that such reporting is not necessary to law enforcement or protection of the revenue. Every wholesale dealer in liquors who offers distilled spirits for sale shall submit a monthly report on Form 338, showing the total wine gallons if in bottles, or proof gallons if in packages, of distilled spirits (a) on hand at the beginning of the month, (b) received during the month, (c) disposed of during the month, and (d) remaining on hand at the end of the month.

(72 Stat. 1342, 1395; 26 U.S.C. 5114, 5555)

§ 194.222 Requirements as to wines and beer.

Every wholesale dealer in liquors who receives wines, or wines and beer, and every wholesale dealer in beer shall keep at his place of business a complete record of all wines and beer received, showing (a) the quantities thereof, (b) from whom received, and (c) the receiving dates. Such record, which must be kept for a period of not less than two years as prescribed in § 194.242, shall consist of all purchase invoices or bills covering wines and beer received or, at the option of the dealer, a book record containing all of the required information. Wholesale dealers are not required to prepare or submit reports to assistant regional commissioners of transactions relating to wines and beer.

(72 Stat. 1342, 1348, 1395; 26 U.S.C. 5114, 5146, 5555)

§ 194.223 Records to be kept by States, political subdivisions thereof, or the District of Columbia.

The provisions of this subpart relative to the maintenance of records and the submission of reports shall not apply to States, political subdivisions thereof, or

the District of Columbia, or any liquor stores operated by such entities that maintain and make available for inspection by internal revenue officers records which will enable such officers to verify receipts of wines and beer and trace readily all distilled spirits received and disposed of by them: *Provided,* That such States, political subdivisions thereof, or the District of Columbia, and liquor stores operated by them, shall, on request of the assistant regional commissioner, furnish such transcripts, summaries, and copies of their records as he shall require.

(72 Stat. 1342, 1348, 1395; 26 U.S.C. 5114, 5146, 5555)

§ 194.224 Records to be kept by proprietors of distilled spirits plants.

Wholesale liquor dealer operations conducted by proprietors of distilled spirits plants shall be recorded and reported in accordance with the applicable provisions of Part 201 of this chapter.

(72 Stat. 1342, 1361; 26 U.S.C. 5114, 5207)

§ 194.225 Records of receipt.

Every wholesale dealer in liquors, upon the physical receipt of each individual lot or shipment of distilled spirits, shall prepare a record of receipt which shall show (a) name and address of consignor, (b) date of receipt, (c) brand name, (d) name of producer or bottler, (3) kind of spirits, except that this may be omitted if the dealer keeps available for inspection a separate list or record identifying "kind" with the brand name, (f) quantity actually received (showing number of packages, if any, and number of cases by size of bottle, and explaining any shortage, breakage, leakage, or other difference from the quantity shown on the commercial papers covering the shipment), and (g) serial numbers of packages and cases, unless such serial numbers are available on the consignor's invoice or attachments thereto. Additional information desired by the wholesale dealer may also be shown. All information required to be shown on records of receipt shall be entered on such records by the close of the business day next succeeding that on which the spirits are received. Where the wholesale dealer so defers the preparation of such records, he shall keep memorandum records, prepared at the time the spirits are received, which shall show the data needed to prepare the prescribed records of receipt. Records of receipt may be prepared by entering each individual lot of distilled spirits either (1) on an individual looseleaf "Record of Receipt," preprinted as prescribed in § 194.228, (2) in chronological order on records prepared by tabulating or other mechanical office equipment, if such records are preprinted as prescribed in § 194.228, or (3) in chronological order in a bound record book, provided all pages of such book are prenumbered as prescribed in § 194.228. The dealer may elect to use any one of the above types of record, but may not change from one type to another without prior approval from the assistant regional commissioner. All entries, with the exception of those prescribed for returned merchandise, shall be supported by corresponding invoices of the consignor. Credit memorandums conforming to the requirements of § 194.228 may, if desired, be used in lieu of individual looseleaf "Records of Receipt" to show the receipt of returned merchandise. Variations in the format or in the methods of preparation may be authorized, as provided in § 194.229.

(72 Stat. 1342; 26 U.S.C. 5114)

§ 194.226 Records of disposition.

Every wholesale dealer shall prepare a record covering the physical disposition of each individual lot of distilled spirits, which shall show (a) name and address of consignee, (b) date of disposition, (c) kind of spirits, except that this may be omitted if the dealer keeps available for inspection a separate list or record identifying "kind" with the brand name, (d) brand name, (e) number of packages, if any, and number of cases by size of bottle, and (f) serial numbers of the cases or packages. Additional information desired by the dealer may also be shown. Records of disposition shall be prepared by entering each individual lot of distilled spirits either (1) on an individual looseleaf "Record of Disposition," preprinted as prescribed in § 194.228, (2) in chronological order on records prepared by tabulating or other mechanical office equipment, if such records are preprinted as prescribed in § 194.228, or (3) in chronological order in a bound record book, provided all pages of such book are prenumbered as prescribed in § 194.228. Case and package serial numbers may be shown either on the record of disposition or on supporting documents attached thereto. The completed order forms of the dealer, or copies of his invoices of sale, will be acceptable as "Records of Disposition" if such documents provide all of the required information, and are preprinted as prescribed in § 194.228. If copies of order forms or invoices of sale are maintained as "Records of Disposition," case or package serial numbers need be entered on, or attached to, only the copies retained as such records. The dealer may elect to use any one of the above types of record, but may not change from one type to another without prior approval from the assistant regional commissioner. Entries on records of disposition shall be completed by the close of the business day next succeeding that on which the spirits are removed. Where the dealer so defers the preparation of such records he shall keep memorandum records, prepared at the time the spirits are sent out, or prior thereto, which shall show the data needed to prepare the prescribed records. Each record of disposition shall be supported by a corresponding delivery receipt (which may be executed on a copy of the "Record of Disposition") fully describing the spirits and signed by the consignee or his agent, or by a copy of a bill of lading indicating delivery of the spirits to a common carrier. Documents supporting records of disposition shall have noted thereon the serial number of the corresponding "Record of Disposition," or the page number of the machine record or record book, as the case may be. Variations in the format or in the methods of preparation may be authorized, as provided in § 194.229.

(72 Stat. 1342; 26 U.S.C. 5114)

§ 194.227 Cancelled or corrected records.

Entries in record books shall not be erased or obliterated, nor shall whole or partial pages be removed from such books. Correction or deletion of any entry in a record or report shall be accomplished by drawing a line through such entry, and making appropriate correction, explanation, or reference on the same page or sheet. Where a looseleaf "Record of Receipt" or "Record of Disposition" is voided for any reason, all copies thereof shall be marked "Cancelled" and be filed as prescribed in § 194.240; if a new record is prepared in lieu thereof, the serial number of the new record shall be noted on all copies of the cancelled record. Where items entered on a "Record of Disposition" are deleted for reasons such as the refusal of the merchandise by the consignee, or the inability of the wholesale dealer to supply such merchandise, appropriate explanations shall be made on all copies of the record.

(72 Stat. 1342; 26 U.S.C. 5114)

§ 194.228 Format of records of receipt and disposition.

Each individual "Record of Receipt" and "Record of Disposition," each credit memorandum used for recording the receipt of returned distilled spirits, and each sheet, or page used in tabulating or other mechanical office equipment for recording the receipt or disposition of distilled spirits shall be preprinted with the name and address of the wholesale dealer in liquors. Each such record, sheet, or page shall also bear a preprinted serial number, beginning with number 1 and, before repeating, continuing in numerical sequence to a number high enough to preclude the duplication of a serial number in such group within a period of six months: *Provided,* That upon application, the assistant regional commissioner may authorize a wholesale dealer to affix page serial numbers in consecutive order during the preparation or processing of the prescribed records, or authorize the serial numbering of such records beginning with some number other than 1, or authorize the repetition of blocks of serial numbers within a lesser period than six months, where the assistant regional commissioner finds that the dealer's accounting system will afford an effective measure of control and such variation will not be likely to lend itself to the falsification of records. Each serially numbered form or sheet shall be accounted for by the dealer. If a bound record book is used for recording receipts and dispositions, all of the pages of such book shall be numbered in unbroken sequence.

(72 Stat. 1342; 26 U.S.C. 5114)

§ 194.229 Variations in format, or preparation, of records.

(a) *Authorization.* The Director may approve variations in the format of records of receipt and disposition, or in the methods of preparing such records, where it is shown that variations from the requirements are necessary in order to use tabulating equipment, business machines, or existing accounting systems, and will not (1) unduly hinder the effective administration of this part, (2) jeopardize the revenue, or (3) be contrary to any provision of law. A dealer who proposes to employ format or methods other than as provided in this part shall submit written application so to do, in triplicate, to the assistant regional commissioner. Such application shall describe the proposed variations and set forth the need therefor. The assistant regional commissioner will determine the need for the variations, and whether approval thereof would unduly hinder the effective administration of this part or result in jeopardy to the revenue. The assistant regional commissioner will forward two copies of the application to the Director together with a report of his findings and his recommendation. Variations in format or methods shall not be employed until approval is received from the Director.

(b) *Requirements.* Any information required by this part to be kept or filed is subject to the provisions of law and this part relating to required records and reports, regardless of the form or manner in which kept or filed.

§ 194.230 Recapitulation records.

Every wholesale dealer in liquors shall, daily, prepare a recapitulation record showing the total quantities of distilled spirits received and disposed of during the day. At the end of each month he shall prepare grand totals of all receipts and dispositions during the month. The work sheets from which totals are obtained shall be retained for a period of 2 years.

DAILY AND MONTHLY REPORTS

§ 194.231 Wholesale liquor dealer's monthly report, Form 338.

Every wholesale dealer in liquors who is required to keep the records prescribed in § 194.221 shall file with the assistant regional commissioner a monthly report, Form 338, showing the total quantities of distilled spirits received and disposed of during the month, not later than the 10th day of the month succeeding that for which rendered.

(72 Stat. 1342; 26 U.S.C. 5114)

§ 194.232 No transactions during month.

If there were no receipts or disposals of distilled spirits by a wholesale dealer in liquors during a month, Form 338 shall be prepared and forwarded to the assistant regional commissioner, showing the quantity on hand the first day of the month and the quantity on hand the last day of the month and marked "No transactions during month."

(72 Stat. 1342; 26 U.S.C. 5114)

§ 194.233 Discontinuance of business.

When a wholesale dealer in liquors discontinues business as such, he shall render Form 338, covering transactions for the month in which business is discontinued, and mark such report "Final."

(72 Stat. 1342; 26 U.S.C. 5114)

§ 194.234 Daily reports, Forms 52A and 52B.

Except as provided in §§ 194.223 and 194.224, every wholesale dealer in liquors shall prepare and submit, daily, a report on Form 52A of all distilled spirits received by him, and on Form 52B of all distilled spirits disposed of by him. The reports shall be filed with the assistant regional commissioner by delivering or mailing them to such officer on the date the transactions entered therein occur: *Provided,* That in any case in which the assistant regional commissioner shall direct, the reports shall be so filed with the supervisor in charge instead of the assistant regional commissioner. Each report shall bear the following declaration signed by the dealer or his authorized agent:

I declare under the penalties of perjury that this report, consisting of _____ pages, has been examined by me and to the best of my knowledge and belief is a true, correct, and complete report of all the transactions which occured during the period covered thereby, and each entry therein is correct.

If in any case the assistant regional commissioner shall so authorize, the reports, in lieu of being filed daily, may be filed for such periods and at such times as he may deem necessary in the interest of the Government, or the reports may be waived as provided in § 194.221.

(68A Stat. 749, 72 Stat. 1342; 26 U.S.C. 6065, 5114)

§ 194.235 Entries on Forms 52A and 52B.

Where more than one shipment of distilled spirits is received from the same consignor during any month, there will be reported on Form 52A for the first shipment received, the name and address of such consignor, followed by the distilled spirits plant number of the consignor's plant (for example, DSP–KY–4) or, in the case of shipments received from wholesale dealers in liquors, or importers, the permit number of the consignor (for example, CHI–I–3456). For the remaining shipments received from such consignor during the month, there may be reported in the column designated "Name" such registry number or permit number, as the case may be, and the name and address of the consignor may be omitted. Likewise, where more than one shipment of distilled spirits is sent to the same consignee during any month, there will be reported on Form 52B for the first shipment made the name and address of such consignee followed by the registry number or permit number of the consignee. For the remaining shipments made to such consignee during the month, there may be reported in the column designated "Name" such registry number or permit number, as the case may be, and the name and address of the consignee may be omitted. Where the consignor or consignee is a retail dealer in liquors, the name and address shall be reported on Form 52A or 52B for each shipment received or sent.

(72 Stat. 1342; 26 U.S.C. 5114)

§ 194.236 Entry of miscellaneous items.

Wholesale dealers in liquors may report on Form 52B as one item the total quantity of different kinds of distilled spirits made up from broken cases disposed of to the same person on the same day, provided such total quantity is not in excess of 10 gallons. The entry of such items shall be stated as "Miscellaneous" or "Misc." and shall show the date, the name and address of the person to whom sold, and the quantity.

(72 Stat. 1342; 26 U.S.C. 5114)

§ 194.237 Serial numbers of containers.

Serial numbers of containers of distilled spirits received, or disposed of, shall be reported on Forms 52A or 52B unless the omission of such serial numbers is specifically authorized by the assistant regional commissioner.

(72 Stat. 1342; 26 U.S.C. 5114)

§ 194.238 Requirements when wholesale dealer in liquors maintains a retail department.

When a wholesale dealer in liquors maintains a separate department on his premises for the retailing (to persons other than dealers) of distilled spirits, he shall keep the records and render the reports prescribed in § 194.221 with respect to all distilled spirits received on his premises, and of all distilled spirits disposed of to other dealers or transferred to his retail department. At the time distilled spirits are transferred to the retail department, a record showing such disposition shall be prepared as prescribed in § 194.226. Where it is necessary in the filling of an order to transfer distilled spirits from the retail department to the wholesale department, a record showing receipt in the wholesale department shall be prepared as prescribed in § 194.225, and the entire wholesale sale shall be entered on a record of disposition in the same manner as any other disposition from the wholesale department. The provisions of this subpart relating to submission of reports on Forms 52A and 52B are applicable to all transfers between wholesale and retail departments. The retail department need not be maintained in a separate room, or be partitioned off from the wholesale department, but the retail department shall in fact be separate from the wholesale department. Where a wholesale dealer in liquors does not maintain a separate retail department, all distilled spirits received and disposed of at his premises shall be accounted for on records of receipt and disposition, and on Forms 52A and 52B when submitted, regardless of the quantity involved.

(72 Stat. 1342; 26 U.S.C. 5114)

RETAIL DEALER'S RECORDS

§ 194.239 Requirements for retail dealers.

(a) *Records of receipts.* Each retail dealer in liquors and each retail dealer in beer shall keep at his place of business a complete record of all distilled spirits, wines, or beer received, showing (1) the quantities thereof, (2) from whom received, and (3) the receiving dates: *Provided,* That in cases where wines and beer are retailed only for off-premise consumption, the assistant regional commissioner may authorize the records to be maintained at other premises under control of the same dealer if he finds that such maintenance will not cause undue inconvenience to internal revenue officers desiring to examine such record. Such record shall consist of all purchase invoices or bills covering distilled spirits, wines, and beer received or, at the option of the dealer, a book record containing all of the required information.

(b) *Records of sales of 20 wine gallons or more.* Every retail dealer who makes sales of distilled spirits, of wines, or of beer in quantities of 20 wine gallons or more to the same person at the same time shall prepare and keep a record of each such sale, which shall show (1) the date of sale, (2) the name and address of the purchaser, (3) the kind and quantity of each kind of liquors sold, and (4) the serial numbers of all full cases of distilled spirits included in the sale. Each entry on such record shall be supported by a corresponding delivery receipt (which may be executed on a copy of the sales slip) signed by the purchaser or his agent.

(72 Stat. 1345, 1348, 1395, 1413; 26 U.S.C. 5124, 5146, 5555, 5691)

FILES OF RECORDS AND REPORTS

§ 194.240 Manner of filing looseleaf records of receipt and disposition.

One legible copy of (a) each "Record of Receipt," (b) each credit memorandum used for the purpose of recording the receipt of returned merchandise, and (c) each "Record of Disposition," shall be marked or stamped as "Government File Copy," and shall be filed chronologically, and in numerical sequence within each date, in looseleaf binders or books. Where the chronological filing of such records disarranges their numerical sequence to such an extent that the sequence of numbers cannot be readily traced, a control record shall be maintained by the wholesale dealer, which shall key the numerical sequence of the records to their respective dates. Government file copies shall be filed not later than the close of the business day next succeeding that on which the transaction occurred. Separate files shall be maintained for "Records of Receipt," for credit memorandums used to record receipt of returned merchandise, and for "Records of Disposition." Supporting documents such as consignors' invoices, delivery receipts, and bills of lading, or exact copies thereof, may be filed in accordance with the wholesaler's customary practice. Documents supporting records of disposition shall have noted thereon the identifying serial numbers of the records of disposition to which they refer, as required by § 194.226.

(72 Stat. 1342; 26 U.S.C. 5114)

§ 194.241 Place of filing.

Prescribed records of receipt and disposition and file copies of Forms 52A, 52B, 338, and the recapitulation records required by § 194.230, shall be maintained in chronological order in separate files at the premises where the distilled spirits are received and sent out: *Provided,* That the assistant regional commissioner may, pursuant to an application received from the wholesale dealer, authorize the files, or any individual file, to be maintained at other premises under control of the same dealer, if he finds that such maintenance will not delay the timely filing of any document, or cause undue inconvenience to internal revenue officers desiring to examine such files.

(72 Stat. 1342; 26 U.S.C. 5114)

PERIOD OF RETENTION

§ 194.242 Retention of records and files.

All records prescribed by this part, documents or copies of documents supporting such records, and file copies of reports submitted, shall be preserved by the person required to keep such documents for a period of not less than 2 years, and during such period shall be available, during business hours, for inspection and the taking of abstracts therefrom by internal revenue officers. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for such inspection and the taking of abstracts therefrom.

(72 Stat. 1348, 1395; 26 U.S.C. 5146, 5555)

§ 194.243 Photographic copies of records.

Any dealer who desires to utilize any photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for reproducing the original of any record, document or report, for the purpose of reproducing and preserving records required to be maintained by this part, shall file an application, in triplicate, with the assistant regional commissioner for approval of such process. The application shall describe (a) the records the dealer proposes to reproduce, (b) the reproduction process he proposes to employ, (c) the manner in which he proposes to preserve the reproductions, and (d) the facilities he proposes to provide for examining, viewing, or using such reproductions. The assistant regional commissioner shall not approve the application unless the Director has approved the reproduction of records of the same class by the process described, and the provisions made by the applicant for the preserving, examining, viewing, and using of the reproductions are deemed to be satisfactory. If the application is approved, the dealer shall retain the reproductions in lieu of the original records, reports, or other documents; preserve them in conveniently accessible files; and provide for the examining, viewing, and using of such reproductions the same as if they were the original records.

(72 Stat. 1395; 26 U.S.C. 5555)

PROCUREMENT OF REPORT FORMS

§ 194.244 Forms to be provided by users at own expense.

Forms 52A, 52B, and 338 will be provided by users at their own expense, but shall be in the form prescribed by the Director: *Provided,* That, with the approval of the Director, they may be modified to adapt their use to tabulating or other mechanical equipment. Application for permission to modify such forms shall be filed in the manner prescribed in § 194.229.

POSTING OF SIGNS

§ 194.245 Sign of wholesale dealer in liquors.

Every wholesale dealer in liquors who is required to pay special tax as such dealer shall place and keep conspicuously on the outside of his place of business a sign, exhibiting, in plain, durable, and legible letters the name, or firm of the wholesale dealer and the words "Wholesale Liquor Dealer." In those states where the difinition of wholesale liquor dealer differs from the definition in § 194.24, the words "Wholesale Liquor Dealer under Federal Law" may be used. In the case of a wholesale dealer who obtains a special tax stamp designated "Wholesale Dealer in Wines," or "Wholesale Dealer in Wines and Beer," the requirements of this section will be met by the posting of a sign of the character prescribed herein, but with words conforming to the designation of the special tax stamp.

(72 Stat. 1342; 26 U.S.C. 5115)

§ 194.246 Display of false sign.

No person other than a person engaged in business as a wholesale dealer in liquors who has paid the special tax (or the proprietor of a distilled spirits plant or bonded wine cellar who is exempt from payment of special tax by reason of section 5113(a), I.R.C.) shall put or keep up any sign indicating that he is a wholesale dealer in liquors.

(72 Stat. 1410; 26 U.S.C. 5681)

§ 194.247 Other dealers; no sign required.

Internal revenue laws require the posting of special tax stamps, as provided in § 194.131, but do not require the posting of signs by retail dealers in liquors, retail dealers in beer, or wholesale dealers in beer.

Subpart P—Strip Stamps

§ 194.251 Strip stamps required on all bottles.

Except as provided in §§ 194.271–194.272, all distilled spirits in the possession of wholesale dealers in liquors or retail dealers in liquors shall be in bottles or similar containers of a capacity of 1 gallon or less which shall

bear the prescribed strip stamps evidencing bottling in compliance with internal revenue law. The strip stamps shall be affixed in such manner as to be broken when the containers are opened.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 194.252 Breaking of strip stamp on opening bottle.

The strip stamp affixed to a container of distilled spirits (whether affixed over the mouth of the container or in some other authorized manner) shall be broken on opening the container. A portion of the strip stamp shall be left attached to the container while any part of the contents remain therein.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 194.253 Mutilated or missing strip stamps.

Any unopened bottle or other approved container of distilled spirits—

(a) From which the strip stamp is missing,

(b) On which the strip stamp is mutilated to the extent that the genuineness of the stamp cannot be determined, or

(c) The contents of which are accessible without breaking the stamp (unless the container comes within the exception in § 194.251),

shall be restamped pursuant to §194.-254–194.255, or be returned to a distilled spirits plant for restamping pursuant to written application, in duplicate, approved by the assistant regional commissioner. Where the containers of distilled spirits are to be returned to a distilled spirits plant for restamping, the dealer shall include in his application for approval of such transaction an accurate description of the containers of distilled spirits to be restamped and the name and address of the plant proprietor who has agreed to accept the liquors for restamping.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 194.254 Replacement of strip stamps found by dealer to be mutilated or missing.

Containers requiring restamping, as described in § 194.253, shall be set aside by the dealer and application for necessary stamps submitted with Form 428, in duplicate, to the assistant regional commissioner. Copies of Form 428 may be obtained from the assistant regional commissioner. In every case the application shall state the cause of mutilation or absence of the stamps and submit evidence that the spirits are eligible for stamping under section 5205(e), I.R.C. Such evidence may consist of invoices covering purchase of the spirits, in addition to other available documents. Such application shall be signed by the dealer or his authorized agent under the penalties of perjury immediately below a declaration, worded as follows:

I declare under the penalties of prejury that I have examined this application and to the best of my knowledge and belief it is true and correct.

If the assistant regional commissioner is satisfied from the evidence submitted that the mutilation or absence of the stamps has been satisfactorily explained, he will approve the requisition for stamps, Form 428; obtain and deliver the stamps to the applicant by mail with instructions in regard to affixing them to the containers, or by a representative of his office. Where an overprinted stamp is to be replaced by the dealer, the word "Restamped," the name of the dealer, and the date of restamping shall be imprinted, or written in ink, in lieu of overprinting the replacement stamp.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 194.255 Strip stamps found by internal revenue officer to be mutilated or missing.

When an internal revenue officer discovers an unopened bottle of distilled spirits which requires restamping due to conditions specified in § 194.253, he will direct that the bottle be set aside. If the officer is satisfied that the spirits are eligible for restamping, he will secure from the dealer the application for strip stamps and Form 428 required under the provisions of § 194.254 and forward them to the assistant regional commissioner. When the internal revenue officer has good reason to believe that the distilled spirits have not been lawfully stamped, or that the original contents of the bottle have been replaced or increased by the addition of any substance whatsoever, he will seize the spirits for forfeiture.

(72 Stat. 1358, 1404; 26 U.S.C. 5205, 5613)

§ 194.256 Replacement not required.

Where an immaterial portion of the stamp is missing, or where the strip stamp has dropped off a bottle and may be reaffixed thereto by the dealer, it will not be necessary to restamp the container.

Subpart Q—Reuse and Possession of Used Liquor Bottles

§ 194.261 Reuse or refilling of liquor bottles.

No person who sells, or offers for sale, distilled spirits, or agent or employee of such person, shall (a) place in any liquor bottle any distilled spirits whatsoever other than those contained in such bottle at the time of stamping under the provisions of chapter 51, I.R.C., or (b) by the addition of any substance whatsoever to any liquor bottle, in any manner alter or increase any portion of the original contents contained in such bottle at the time of stamping under the provisions of chapter 51, I.R.C., except as provided in Part 175 of this chapter.

(72 Stat. 1374; 26 U.S.C. 5301)

§ 194.62 Possession of refilled liquor bottles.

No person who sells, or offers for sale, distilled spirits, or agent or employee of such person, shall

(a) Possess any liquor bottle in which any distilled spirits have been placed in violation of the provisions of § 194.261, or

(b) Possess any liquor bottle, any portion of the contents of which has been altered or increased in violation of the provisions of § 194.261.

(72 Stat. 1374; 26 U.S.C. 5301)

§ 194.263 Possession of used liquor bottles.

The possession of used liquor bottles by any person other than the person who empties the contents thereof is prohibited, except that this shall not prevent the owner or occupant of any premises on which such bottles have been lawfully emptied from assembling the same on such premises (a) for the purpose of destruction or (b) for delivery to a bottler or importer who maintains a storage place for used liquor bottles authorized by Part 175 of this chapter.

Subpart R—Packaging of Alcohol for Industrial Uses

§ 194.271 Requirements and procedure.

On compliance with the provisions of Part 201 of this chapter applicable to persons repackaging distilled spirits, a dealer in liquors engaged in the business of supplying alcohol for industrial uses may obtain bulk alcohol on which the tax has been paid or determined and repackage such alcohol for sale for industrial use in containers of a capacity in excess of 1 wine gallon and not more than 5 wine gallons.

(a) *Qualification procedure.* Application for registration, Form 2607, and application for an operating permit, Form 2603, modified in accordance with instructions of the assistant regional commissioner, shall be executed and filed with the assistant regional commissioner. No alcohol shall be repackaged until the approved application for registration and the operating permit are received from the assistant regional commissioner.

(b) *Operations.* Repackaging operations shall be conducted in accordance with the bottling and packaging requirements of Part 201 of this chapter, except—

(1) Requisitions for strip stamps on Form 428 shall be submitted directly to the assistant regional commissioner,

(2) Packaging and labeling operations will be carried on without supervision of an internal revenue officer unless the assistant regional commissioner requires such supervision, and

(3) The dumping and repackaging of each lot of alcohol need not be recorded on a specified form.

(c) *Records.* The dealer shall keep records, daily, showing the bulk alcohol received, dumped for packaging, packaged, strip stamped, and disposed of, including the name and address of each consignor and consignee. A monthly report on Form 2260 of strip stamp transactions and a monthly report on Form 2733 of bulk alcohol received, packaged, and disposed of, shall be submitted to the assistant regional commissioner not later than the 10th day of the month succeeding that for which rendered. Records, documents, or copies of documents supporting such records, and copies of reports submitted to the assistant regional commissioner shall be filed and retained as prescribed in §§ 194.241 and 194.242.

(72 Stat. 1343, 1358, 1360; 26 U.S.C. 5116, 5205, 5206)

§ 194.272 Labeling.

Every dealer packaging alcohol for industrial use shall affix to each package filled a label bearing in conspicuous print the words "Alcohol" and "For Industrial Use," the proof of the alcohol, the capacity of the container, and the packaging dealer's name and address. The dealer may incorporate in the label other appropriate statements; however, such statements shall not obscure or contradict the data required hereby to be shown on such labels.

(72 Stat. 1343, 1360; 26 U.S.C. 5116, 5206)

Subpart S—Distilled Spirits for Export With Benefit of Drawback

§ 194.281 General.

A wholesale dealer in liquors may receive, store, and export taxpaid distilled spirits which have been bottled especially for export with benefit of drawback. The receipt for storage, the removal, and the exportation of such distilled spirits shall be in accordance with the provisions of Part 252 of this chapter.

§ 194.282 Export storage.

A wholesale dealer in liquors who intends to receive, store, and export distilled spirits bottled especially for export with benefit of drawback shall provide storage for such distilled spirits on his wholesale dealer premises, or at another place of storage as provided in § 194.54. Distilled spirits to be exported with benefit of drawback shall be kept segregated from all other distilled spirits, wines, or beer intended for domestic use, or other articles, whether stored on the wholesale dealer's premises or elsewhere.

§ 194.283 Records.

The provisions of subpart O regarding records and reports relating to liquors for domestic use are hereby extended to export storage transactions permitted under the provisions of this subpart: *Provided*, That an appropriately identified separate Form 338, covering export storage transactions in distilled spirits, shall be submitted for each month in which there are any such transactions.

Subpart T—Miscellaneous

§ 194.291 Destruction of marks and brands on wine containers.

The dealer who empties any cask, barrel, keg, or other bulk container of wine shall scrape or obliterate from the empty container all marks, brands, tags, or labels placed thereon under the provisions of Part 240 of this chapter as evidence of the payment or determination of the tax on the wine removed therein from the bonded wine cellar.

§ 194.292 Wine bottling.

Every person desiring to bottle, package, or repackage taxpaid wines at premises other than the premises of a qualified distilled spirits plant shall, before carrying on such operations, make application to, and receive permission from, the assistant regional commissioner, as required under Part 231 of this chapter. The decanting of wine by caterers or other retail dealers for table or room service, banquets, and similar purposes shall not be considered as "bottling," if the decanters are not furnished for the purpose of carrying wine away from the area where served.

(72 Stat. 1378; 26 U.S.C. 5352)

[F.R. Doc. 60-3135; Filed, Apr. 6, 1960; 8.45 a.m.]

[26 CFR (1954) Part 252]

EXPORTATION OF LIQUORS

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DANA LATHAM,
Commissioner of Internal Revenue.

Preamble. 1. The regulations in this part shall, on and after July 1, 1960, supersede the 1955 edition of 26 CFR Part 252 (20 F.R. 4003), as amended, and the provisions of 26 CFR Part 253 (21 F.R. 3268), as amended, except as Part 253 relates to tobacco products and cigarette papers and tubes. These regulations also supersede all provisions of prior regulations in 26 CFR Parts 182 (19 F.R. 9438), 201 (24 F.R. 4791), 216 (20 F.R. 2366), 220 (19 F.R. 9685), 221 (19 F.R. 9577), 225 (19 F.R. 9737), 240 (19 F.R. 9631), and 245 (21 F.R. 8625), as amended, which pertain to the matters covered in this part.

2. These regulations shall not affect any act done or any liability or right accruing or accrued, or any suit or proceeding had or commenced before the effective date of these regulations.

Subpart A—Scope

Subpart B—Definitions

Subpart C—Miscellaneous Provisions

Subpart D—Bonds and Consents of Surety

Subpart E—Withdrawal of Distilled Spirits Without Payment of Tax for Exportation, Use on Vessels and Aircraft, Transfer to a Foreign-Trade Zone, or Transportation to a Manufacturing Bonded Warehouse

AUTHORITY: §§ 252.1 to 252.335 issued under section 7805, I.R.C., 68A Stat. 917; 26 U.S.C. 7805. Statutory provisions interpreted or implied are cited to text in parentheses.

Subpart A—Scope

§ 252.1 General.

The regulations in this part relate to exportation, lading for use on vessels and aircraft, and the transfer to a foreign-trade zone or a manufacturing bonded warehouse, class six, of distilled spirits (including specially denatured spirits), beer, and wine, whether without payment of tax, free of tax, or with benefit of drawback, and includes requirements with respect to removal, shipment, lading, deposit, evidence of exportation, losses, claims, and bonds.

§ 252.2 Forms prescribed.

The Director is authorized to prescribe all internal revenue forms required by this part. All of the information called for in each form shall be furnished, as indicated by the headings on the form and the instructions thereon or issued in respect thereto, and as required by this part.

(72 Stat. 1361; 26 U.S.C. 5207)

§ 252.3 Related regulations.

Procedural and substantive instructions dealing with operations which are related to the regulations in this part will be found in the regulations listed below:

19 CFR Chapter I—Customs Regulations

26 CFR Part 175—Traffic in Containers of Distilled Spirits

26 CFR Part 186—Gauging Manual

26 CFR Part 194—Liquor Dealers

26 CFR Part 201—Distilled Spirits Plants

26 CFR Part 211—Distribution and Use of Denatured Alcohol and Rum

26 CFR Part 212—Formulas for Denatured Alcohol and Rum

26 CFR Part 231—Taxpaid Wine Bottling Houses

26 CFR Part 240—Wine

26 CFR Part 245—Beer

27 CFR Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act

27 CFR Part 4—Wine Labeling and Advertising

31 CFR Part 225—Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds

Subpart B—Definitions

§ 252.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Assistant regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, a regional commissioner.

Beer. Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

Bonded premises—distilled spirits plant. The premises of a distilled spirits plant, or part thereof, on which operations relating to the production, storage, denaturation, or bottling of spirits prior to payment or determination of tax are authorized to be conducted.

Bonded wine cellar. Premises established under Part 240 of this chapter for the production, blending, cellar treatment, storage, bottling, packaging, or repackaging of untaxpaid wine.

Brewer. A proprietor of a brewery.

Brewery. Premises established under Part 245 of this chapter for the production of beer.

CFR. The Code of Federal Regulations.

Collector of customs. The person having charge of a customs collection district, the assistant collector of customs, deputy collector of customs, and any person authorized by law or by regulations approved by the Secretary to perform the duties of a collector of customs.

Commissioner. The Commissioner of Internal Revenue.

Container. Any receptacle, vessel, or any form of package, bottle, can, tank, or pipeline used, or capable of being used, for holding, storing, transferring, or conveying liquors.

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or agent or other person authorized by law or by the Secretary, or appointed in writing by a collector of customs, to perform the duties of an officer of the Customs Service.

(19 U.S.C. 1401(1))

Director. The Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C.

Distilled spirits or spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, and all dilutions and mixtures thereof, from whatever source or by whatever process produced, including whisky, brandy, rum, gin, vodka, and products of rectification (other than products classed as wine), but not denatured spirits.

Distilled spirits plant. An establishment qualified under the provisions of Part 201 of this chapter for the production, bonded storage, or bottling of spirits, or for rectification, or for any combination of such operations.

District director. A district director of internal revenue.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document or, where no form of declaration is prescribed, with the declaration:

I declare under the penalties of perjury that this ---------- (insert type of document such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.

Exportation. A severance of goods from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country. The export character of any shipment shall be determined by the intention with which it is made, and it assumes an export character only when destined for use in a foreign country. For the purposes of this part, shipments to Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Panama Canal Zone shall be treated as exportations. Shipments to Kingman's Reef, the Midway Islands, or Wake Island are not exportations within the meaning of this part.

(68A Stat. 908; 26 U.S.C. 7653)

Foreign-trade zone or zone. A foreign-trade zone established and operated pursuant to the Act of June 18, 1934, as amended.

(48 Stat. 998–1003, as amended; 19 U.S.C. 81a–81U)

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

Internal revenue officer. An officer or employee of the Internal Revenue Service duly authorized to perform any function relating to the administration or enforcement of this chapter.

I.R.C. The Internal Revenue Code of 1954, as amended.

Liquor. Distilled spirits, wines, and/or beer.

Manufacturing bonded warehouse. A manufacturing bonded warehouse, class six, established under the provisions of Customs Regulations (19 CFR Ch. I).

Package. Any cask, keg, barrel, drum, or similar portable container.

Person. An individual, a trust, an estate, a partnership, an association, a company, or a corporation.

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof gallon. A gallon at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

Proprietor. The person who operates the brewery, distilled spirits plant, bonded wine cellar, taxpaid wine bottling house, manufacturing bonded warehouse, or export storage, as the case may be, referred to in this part.

Rectifier. A proprietor of a distilled spirits plant qualified under Part 201 of this chapter to engage in the business of rectifying spirits or wines on which the tax has been paid or determined.

Region. An internal revenue region.

Regional commissioner. A regional commissioner of internal revenue.

Secretary. The Secretary of the Treasury.

Specially denatured spirits. Alcohol or rum, as defined in Part 212 of this chapter, denatured pursuant to the formulas authorized in Part 212 for specially denatured alcohol or rum.

Tank truck. A tank-equipped semitrailer, trailer, or truck.

Tax. The distilled spirits tax, the rectification tax (including the taxes imposed by sections 5022 and 5023, I.R.C.), the beer tax, or the applicable wine tax, as the case may be, imposed by chapter 51, I.R.C.

Tax gallon. The unit of measure of spirits for the imposition of tax under section 5001, I.R.C. When spirits are 100 degrees of proof or more when withdrawn from bond, the tax is determined on a proof gallon basis. When spirits are less than 100 degrees of proof when withdrawn from bond, the tax is determined on a wine gallon basis.

U.S.C. The United States Code.

Wine. All kinds and types of wine having not in excess of 24 percent of alcohol by volume.

Zone operator. The person to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted by the Foreign-Trade Zones Board created by the Act of June 18, 1934, as amended.

(48 Stat. 998–1003, as amended; 19 U.S.C. 81a–81u)

Subpart C—Miscellaneous Provisions

WITHDRAWAL OR LADING FOR USE ON CERTAIN VESSELS AND AIRCRAFT

§ 252.21 General.

Liquors may be withdrawn without payment of tax for lading, and liquors on which the tax has been paid or determined may be laden with benefit of drawback of tax, subject to this part, for use on vessels and aircraft as follows:

(a) Vessels or aircraft operated by the United States;

(b) Vessels of the United States employed in the fisheries as provided in § 252.22 or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions;

(c) Aircraft registered in the United States and actually engaged in foreign trade or trade between the United States and any of its possessions;

(d) Vessels of war of any foreign nation;

(e) Foreign vessels employed in the fisheries as provided in § 252.22 or in the whaling business, or actually engaged in foreign trade or trade between the United States and any of its possessions, where such trade by foreign vessels is permitted; or

(f) Aircraft registered in any foreign country and actually engaged in foreign trade or trade between the United States and any of its possessions, where trade by foreign aircraft is permitted, and where the Secretary of the Treasury shall have been advised by the Secretary of Commerce that he has found such foreign country allows, or will allow, substantially reciprocal privileges in respect to aircraft registered in the United States.

(46 Stat. 690, as amended; 72 Stat. 1334, 1335, 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.22 Vessels employed in the fisheries.

Liquors may be withdrawn or laden under the provisions of paragraphs (b) and (e) of § 252.21 relating to vessels employed in the fisheries, only for use on vessels of the United States documented to engage in the fisheries and foreign fishing vessels of 5 net tons or over if the collector of customs is satisfied by reason of the quantity requested in the light of (a) whether the vessel is employed in substantially continuous fishing activities, and (b) the vessel's complement, that none of the liquors to be withdrawn or laden are intended to be removed from the vessel in, or otherwise returned to, the United States. Such withdrawal or lading shall be conditioned upon compliance with the applicable provisions of this part. Lading of such liquors for use on such vessels shall be subject to approval by the collector of customs of a special written application by the withdrawer

NOTE: As used in this section, the word "withdrawer" shall mean the person executing the application or notice, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be.

or the vessel's master on customs Form 5125 (in duplicate) and a statement by the withdrawer in his application or notice on the required Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, that the liquors are to be laden for use as supplies on a vessel employed in the fisheries. The original application on customs Form 5125, after approval, shall be stamped with the serial number of the Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, and the date thereof, and shall be returned by the collector of customs to the withdrawer or vessel's master for use as prescribed below. Approval of each such application shall be subject to the condition that the original shall be presented thereafter by the withdrawer or the vessel's master to the collector of customs within 24 hours (excluding Saturday, Sunday, and holidays) after each subsequent arrival of the vessel at a customs port or station and that an accounting shall be made at the time of such presentation of the disposition of the liquors until the collector or customs is satisfied that they have been consumed on board, or landed under customs supervision, and takes up the authorization. The approval of customs Form 5125 shall be subject to the further condition that any such liquors remaining on board while the vessel is in port shall be safeguarded in the manner and to such extent as the collector of the port or place of arrival shall deem necessary. When such liquors have been accounted for to the satisfaction of the collector of customs, he shall execute his certificate of lading and use on both copies of the Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, and forward the original of the form to the assistant regional commissioner designated thereon. In the event of a failure on the part of the withdrawer or the master of the vessel to comply with the conditions of this section or upon receipt of evidence that the liquors were not lawfully used as supplies on the vessel, the collector of customs shall advise the assistant regional commissioner of all the facts in the case for determination of any liability incurred. In the case of liquors withdrawn without payment of tax, assessment of tax liability found to have been incurred shall be made against the principal on the bond. In the case of taxpaid or tax determined liquors, the assistant regional commissioner shall determine as to whether to make demand upon the principal and the surety on the bond or to disallow the claim as the case may be.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335, 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.23 Reciprocating foreign countries.

Assistant regional commissioners may approve applications relating to the withdrawal or lading of liquors for use on aircraft of those foreign countries which will allow, to aircraft registered in the United States and engaged in foreign trade, privileges substantially reciprocal to the privileges allowed herein to aircraft of a foreign country. Where application is made to withdraw or lade liquors for use on aircraft of other countries, which it is claimed reciprocate similar privileges to aircraft of the United States, the applicant must first establish the right of such withdrawal or lading. In appropriate cases, the applicant should request the Secretary of Commerce to find and advise the Secretary of the Treasury that such foreign country or countries allow, or will allow, substantially reciprocal privileges to aircraft of the United States.

(46 Stat. 690, as amended; 19 U.S.C. 1309)

MANUFACTURING BONDED WAREHOUSES

§ 252.25 General.

Any manufacturer who manufactures the products designated in section 5522, I.R.C., at a duly constituted manufacturing bonded warehouse, established in accordance with law and the regulations in 19 CFR Ch. I, may withdraw distilled spirits or wines from any distilled spirits plant or bonded wine cellar, as the case may be, without payment of tax, for use in the manufacture of such products for export, or for rectification and export, or shipment in bond to Puerto Rico. The proprietor of the manufacturing bonded warehouse shall furnish bond in accordance with the provisions of §§ 252.63 and 252.64.

(46 Stat. 691, as amended, 72 Stat. 1362, 1380, 1392, 1393, 1394; 19 U.S.C. 1311, 26 U.S.C. 5214, 5362, 5521, 5522, 5523)

FOREIGN-TRADE ZONES

§ 252.30 Export status.

Liquors may be transferred to a foreign-trade zone for the sole purpose of exportation, or storage pending exportation. Liquors of domestic manufacture deposited in a foreign-trade zone under this part shall be considered to be exported for the purpose of the statutes and bonds exacted for the payment of drawback, refund, or exemption from liability for internal revenue taxes and for the purposes of the internal revenue laws generally and the regulations thereunder. Export status is not acquired until application on Zone Form D for admission of the liquors into the zone has been approved by the collector of customs pursuant to the appropriate provisions of 19 CFR Chapter I, and the required certification of deposit of the liquors in the zone has been made on the Internal Revenue Service form prescribed in this part. For the purpose of section 309 of the Tariff Act of 1930, as amended by section 11 of the Customs Simplification Act of 1953 (Pub. Law 243, 83d Congress), liquors removed to foreign-trade zones under the provisions of this part may be removed, pursuant to the provisions of 19 CFR Ch. I, for use as supplies on vessels and aircraft.

(48 Stat. 999, as amended; 19 U.S.C. 81c)

VOLUNTARY DESTRUCTION OF LIQUORS AFTER RECEIPT IN A FOREIGN-TRADE ZONE

§ 252.35 General.

Liquors may not, under the law, be transferred to a foreign-trade zone for

the purpose of destruction. However, liquors transported to and deposited in a foreign-trade zone for exportation or for storage pending exportation may be destroyed under the supervision of the collector of customs, where it is shown to the satisfaction of the assistant regional commissioner of the region in which the zone is located that the liquors, after deposit in a zone, have become unmerchantable or unfit for export.

(48 Stat. 999, as amended; 19 U.S.C. 81c)

§ 252.36 Application.

Application, addressed to the assistant regional commissioner of the region in which the zone is located and filed as hereinafter provided, for authority to destroy domestic distilled spirits (including alcohol), wines, or beer on storage in a foreign-trade zone shall be made by the exporter on letter-size paper, in duplicate, showing the name and address of the claimant and setting forth the following information:

(a) The kind and quantity of the liquor, the serial numbers, if any, of the containers thereof, and identification of the zone in which the liquor is stored;

(b) The name and address of the producer of the liquor, and the name, registry number, if any, and location of the plant, warehouse or other establishment from which such liquors were withdrawn for transportation to and deposit in the foreign-trade zone;

(c) The date, form, and serial number of the Form 206, 1582, 1582–A, 1582–B, 1629, or 1689, as the case may be; and, in the case of liquors on which drawback of internal revenue tax has been allowed, the claim number assigned thereto by the assistant regional commissioner;

(d) Whether the liquor has become unmerchantable or unfit for export after deposit in the zone, together with all the known facts relating thereto; and

(e) Whether the unmerchantable or unfit liquor is covered by valid insurance in excess of the market value thereof, exclusive of tax. If the liquor is insured, the application shall show its market value, the amount and date of each and every policy of insurance, the name and location of the company by which each and every policy was issued, the name and address of the bona fide owner of the liquor, and to the best of the affiant's knowledge, whether any other person or party is indemnified against the loss of the liquor by reason of its spoilage or destruction.

Such application shall be signed by the exporter or his authorized agent and be executed under the penalties of perjury. The assistant regional commissioner may require any further evidence as is deemed necessary. The operator of the foreign-trade zone shall countersign the application or otherwise indicate thereon his knowledge of and concurrence in the application to destroy the liquor. The exporter shall file the application with the collector of customs in whose district the foreign-trade zone is located; at the same time the exporter shall likewise file Zone Form E in accordance with Customs Regulations (19 CFR Ch. I). On receipt of the application the collector of customs shall determine the completeness thereof and shall report any facts relating to the condition of the liquor of which he may have knowledge. The original application shall be forwarded to the assistant regional commissioner and the collector of customs shall retain the copy for his files.

§ 252.37 Action by assistant regional commissioner.

The assistant regional commissioner shall carefully examine the application to see that all the required information has been furnished and shall cause such investigation to be made or require such additional evidence, including samples, to be submitted as he may deem necessary. If the assistant regional commissioner finds that the domestic distilled spirits (including alcohol), wines, or beer were transported to and deposited in a foreign-trade zone in good faith for the purpose of exportation or storage pending exportation, and that such liquors, after deposit in the zone, have become unmerchantable or unfit for export, he may approve the application and authorize the destruction of the liquor described therein under the supervision of the collector of customs. On approval or disapproval of the application, the assistant regional commissioner shall advise the collector of customs of his action.

§ 252.38 Action by collector of customs.

On receipt of the assistant regional commissioner's authorization for destruction of the liquor, or his disapproval of the application for destruction, the collector of customs shall act upon the exporter's application on Zone Form E and dispose of it in accordance with the applicable provisions of Customs Regulations (19 CFR Ch. I). Where the assistant regional commissioner has authorized the destruction of the liquor, such destruction shall be accomplished under customs supervision.

EVIDENCE OF EXPORTATION AND USE

§ 252.40 Evidence of exportation.

The exportation of any shipment may be evidenced by:

(a) A copy of the export bill of lading (§ 252.250); or

(b) A copy of the railway express receipt (§ 252.251); or

(c) A copy of the air express receipt (§ 252.252); or

(d) A copy of the through bill of lading where exportation is to a contiguous foreign country (§ 252.250); or

(e) A certificate by the export carrier, as provided for in § 252.253.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.41 Evidence of lading for use on vessels or aircraft.

The lading of distilled spirits, wines, or beer for use on vessels or aircraft may be evidenced by submission of a receipt procured under the provisions of § 252.268.

(46 Stat. 690, as amended, 72 Stat. 1335, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5055, 5214, 5362)

§ 252.42 Evidence of deposit.

The deposit of distilled spirits and wines in a foreign-trade zone with benefit of drawback may be evidenced by a copy of the transportation bill of lading obtained under the provisions of § 252.250.

(48 Stat. 999, as amended; 19 U.S.C. 81c)

RETENTION OF RECORDS

§ 252.45 Retention of records.

File copies of forms required by this part to be retained by any proprietor or claimant, and all records, documents, or copies of records and documents supporting such forms, shall be preserved by such proprietor or claimant for a period of not less than two years, and during such period shall be available, during business hours, for inspection and the taking of abstracts therefrom by internal revenue officers.

(72 Stat. 1342, 1361, 1381, 1390, 1395; 26 U.S.C. 5114, 5207, 5367, 5415, 5555)

PENALTIES OF PERJURY

§ 252.48 Execution under penalties of perjury.

When a return, form, or other document called for under this part is required by this part or in the instructions on or with the return, form, or other document to be executed under penalties of perjury, it shall be so executed, as defined in Subpart B of this part, and shall be signed by the proprietor, or other duly authorized person.

(68A Stat. 749; 26 U.S.C. 6065)

Subpart D—Bonds and Consents of Surety

§ 252.51 General.

Every person required by this part to file a bond or consent of surety shall prepare and execute it on the prescribed form and file it with the assistant regional commissioner of the region in which is located the premises from which the withdrawal or removal is made or, in the case of taxpaid or taxdetermined spirits in packages filled in internal revenue bond, with the assistant regional commissioner for the region in which the exporter is located, in accordance with the procedures of this part: *Provided*, That the procedures in Parts 201, 240, or 245 of this chapter shall govern bonds given on Forms 2601, 700, or 1566, respectively.

§ 252.52 Corporate surety.

Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary as set forth in Treasury Department Circular 570. Powers of attorney and other evidence of appointment of agents and officers to execute bonds or to consent to changes in the terms of bonds on behalf of corporate sureties are required to be filed with, and passed on by, the Commissioner of Accounts, Surety Bonds Branch, Treasury Department.

(61 Stat. 648; 26 U.S.C. 6, 7)

§ 252.53 Deposit of securities in lieu of corporate surety.

In lieu of corporate surety, the principal may pledge and deposit, as surety for his bond, securities which are transferable and are guaranteed as to both interest and principal by the United

States, in accordance with the provisions of 31 CFR Part 225.

(61 Stat. 650; 6 U.S.C. 15)

§ 252.54 Consents of surety.

Consents of surety to changes in the terms of bonds shall be executed on Form 1533 by the principal and by the surety with the same formality and proof of authority as is required for the execution of bonds.

§ 252.55 Authority to approve bonds and consents of surety.

Assistant regional commissioners are authorized to approve all bonds and consents of surety required by this part.

§ 252.56 Disapproval of bonds or consents of surety.

The assistant regional commissioner may disapprove any bond prescribed by this part, or any consent of surety submitted in respect thereto, if the principal or any person owning, controlling, or actively participating in the management of the business of the principal shall have been previously convicted, in a court of competent jurisdiction, of:

(a) Any fraudulent noncompliance with any provision of any law of the United States, if such provision related to internal revenue or customs taxation of spirits, wines, or beer, or if such offense shall have been compromised with the person on payment of penalties or otherwise; or

(b) Any felony under a law of any State, Territory, or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of spirits, wine, beer, or other intoxicating liquor.

(72 Stat. 1336, 1352, 1353, 1393, 1394; 26 U.S.C. 5062, 5175, 5177, 5522, 5551)

§ 252.57 Appeal to Director.

Where a bond or consent of surety is disapproved by the assistant regional commissioner, the person giving the bond may appeal from such disapproval to the Director, who will hear such appeal. The decision of the Director shall be final.

(72 Stat. 1394; 26 U.S.C. 5551)

§ 252.58 Bond, Form 2601.

(a) *Spirits.* Where spirits are withdrawn without payment of tax, as authorized in § 252.91, from the bonded premises of a distilled spirits plant on application of the proprietor thereof, the bond, Form 2601, given by the proprietor and approved under the provisions of Part 201 of this chapter, shall cover such withdrawals.

(b) *Wine.* Where, under the provisions of Part 201 of this chapter, bond, Form 2601, has been given and approved to cover the operations of a distilled spirits plant and an adjacent bonded wine cellar, such bond shall cover the withdrawal of wine without payment of tax, as authorized in § 252.121, from such bonded wine cellar on application for such withdrawal by the proprietor.

(c) *Specially denatured spirits.* Where specially denatured spirits are withdrawn free of tax, as authorized in § 252.151, from the bonded premises of a distilled spirits plant on application of the proprietor thereof, the proprietor shall file consent of surety Form 1533, extending the terms of his bond, Form 2601, which consent shall be in the following form:

The obligors agree to extend the terms of said bond to cover all liability that may be incurred on all specially denatured spirits withdrawn by the principal for exportation or transfer to a foreign-trade zone, for which satisfactory evidence of exportation, or of deposit in a foreign-trade zone, as required by law and regulations, is not submitted to the assistant regional commissioner.

(72 Stat. 1349, 1352, 1362; 26 U.S.C. 5173, 5175, 5214)

§ 252.59 Bond, Form 700.

Where the operations of a bonded wine cellar are covered by bond, Form 700, as provided in Part 240 of this chapter, such bond shall cover the withdrawal of wine without payment of tax, as authorized in § 252.121, from such bonded wine cellar by the proprietor of the bonded wine cellar.

(72 Stat. 1379, 1380; 26 U.S.C. 5354, 5362)

§ 252.60 Brewer's bond, Form 1566.

Where beer is removed from a brewery without payment of tax for any of the purposes authorized in § 252.141, the brewer's bond, Form 1566, furnished under the provisions of Part 245 of this chapter shall cover such removals: *Provided,* That before any such removal is made for transfer to and deposit in a foreign-trade zone, a consent of the surety extending the terms of the bond to such removals shall be filed with the assistant regional commissioner unless such removals are specifically included in the terms of the bond.

(48 Stat. 999, as amended, 72 Stat. 1334, 1388; 19 U.S.C. 81c, 26 U.S.C. 5053, 5401)

§ 252.61 Bond, Form 2734.

If a specific lot of distilled spirits or wines is to be withdrawn without payment of tax, as authorized in §§ 252.91 (a), (b), or (c) or 252.121 (a), (b), or (c), by a person other than the proprietor of the bonded premises, a specific bond on Form 2734 shall be filed by the exporter with the assistant regional commissioner as provided in § 252.51. The penal sum of such bond shall be not less than the tax prescribed by law on the quantity of spirits or wines to be withdrawn: *Provided,* That the maximum penal sum of such bond shall not exceed $200,000, but in no case shall the penal sum be less than $1,000.

(72 Stat. 1352, 1362, 1380; 26 U.S.C. 5175, 5214, 5362)

§ 252.62 Bond, Form 2735.

(a) *General.* If distilled spirits and/or wines are to be withdrawn from time to time without payment of tax, as authorized in §§ 252.91 (a), (b), or (c) and 252.121 (a), (b), or (c), by a person other than the proprietor of the bonded premises, a continuing bond on Form 2735 shall be filed by the exporter with the assistant regional commissioner as provided in § 252.51. The bond shall be executed in a penal sum sufficient to cover the tax at the rates prescribed by law on the maximum quantity of distilled spirits and wines that may remain unaccounted for at any one time: *Provided,* That the maximum penal sum of such bond shall not exceed $200,000, but in no case shall the penal sum be less than $1,000. Distilled spirits and wines withdrawn for exportation, use on vessels or aircraft, or transfer to a foreign-trade zone, shall remain unaccounted for until the evidence of exportation, use, transfer, or loss in transit, as required by this part, has been filed with the assistant regional commissioner. The exporter shall, at the time of executing Form 2735, designate the premises from which the withdrawals are to be made, provided that, as to any one bond on Form 2735, such premises shall be located in the same internal revenue region.

(b) *Apportioning bonds.* Where a bond on Form 2735 is given in less than the maximum penal sum to cover withdrawals from more than one premise, the principal, at the time of execution of the bond, shall, if he intends to withdraw both distilled spirits and wine, apportion the coverage under the bond between distilled spirits and wine. Where distilled spirits are to be withdrawn from more than one premise, the principal shall also, as to distilled spirits withdrawals, at the time of execution, either (1) apportion the coverage under the bond among the several premises, or (2) designate one distilled spirits plant to which all applications for withdrawals of distilled spirits shall be submitted. If the distilled spirits bond coverage is apportioned at the time of execution, the amount designated by the principal for any distilled spirits plant becomes the maximum bond coverage for withdrawals from that plant. The principal may reapportion the bond coverage if changing conditions make such action necessary, provided that consent of surety, Form 1533, is filed with, and approved by, the assistant regional commissioner. Where the principal designates that all applications for withdrawals of distilled spirits under the bond shall be submitted to one plant, all such applications shall be submitted to the internal revenue officer at that plant for approval, who, after giving his approval, will then forward all copies of the application to the proprietor of the distilled spirits plant from which the distilled spirits are to be withdrawn.

(72 Stat. 1352, 1362, 1380; 26 U.S.C. 5175, 5214, 5362)

§ 252.63 Bond, Form 2736.

Where the proprietor of a manufacturing bonded warehouse desires to withdraw a specific lot of distilled spirits or wines without payment of tax, as authorized in § 252.25, he shall file with the assistant regional commissioner, as provided in § 252.51, a specific bond, on Form 2736, to cover the transportation of the distilled spirits or wines from the bonded premises from which withdrawn to the manufacturing bonded warehouse. The penal sum of such bond shall be not less than the tax prescribed by law on the quantity of distilled spirits or wines to be withdrawn: *Provided,* That the maximum penal sum of such bond shall

not exceed $200,000, but in no case shall the penal sum be less than $1,000.

(72 Stat. 1380, 1393; 26 U.S.C. 5362, 5522)

§ 252.64 Bond, Form 2737.

(a) *General.* Where the proprietor of a manufacturing bonded warehouse desires to withdraw distilled spirits and wines from time to time without payment of tax, as authorized in § 252.25, he shall file with the assistant regional commissioner, as provided in § 252.51, a continuing bond on Form 2737. The bond shall be executed in a penal sum sufficient to cover the tax at the rates prescribed by law on the maximum quantity of distilled spirits and wines which may remain unaccounted for at any one time: *Provided,* That the maximum penal sum of such bond shall not exceed $200,000, but in no case shall the penal sum be less than $1,000. Distilled spirits and wines withdrawn for transfer to a manufacturing bonded warehouse shall remain unaccounted for until the evidence of deposit in such warehouse, as required by this part, has been filed with the assistant regional commissioner. The proprietor shall, at the time of executing Form 2737, designate the premises from which the withdrawals are to be made, provided that, as to any one bond on Form 2737, such premises shall be located in the same internal revenue region.

(b) *Apportioning bonds.* Where a bond on Form 2737 is given in less than the maximum penal sum, the procedures set forth in § 252.62(b) in respect of Form 2735, shall be followed in respect of Form 2737.

(72 Stat. 1380, 1393; 26 U.S.C. 5362, 5522)

§ 252.65 Bond, Form 2738.

Whenever, under the provisions of this part, the exporter desires drawback of tax on distilled spirits or wines to be exported, laden for use on vessels or aircraft, or transferred to and deposited in a foreign-trade zone, as authorized in §§ 252.171, 252.201, and 252.211, prior to the receipt by the assistant regional commissioner of the certified copy of Form 1582, 1629, or 1582–A, as the case may be, as prescribed by this part, he shall file bond on Form 2738 with the assistant regional commissioner as provided in § 252.51. The penal sum of the bond shall be sufficient to cover the amount of drawback which will at any time constitute a charge against the bond: *Provided,* That the maximum penal sum shall not exceed $200,000, but in no case shall the penal sum be less than $1,000.

(46 Stat. 690, 691, as amended, 48 Stat. 999, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 1311, 81c, 26 U.S.C. 5062)

§ 252.66 Strengthening bonds.

In all cases where the penal sum of any bond becomes insufficient, the principal shall either give a strengthening bond with the same surety to attain a sufficient penal sum, or give a new bond to cover the entire liability. Strengthening bonds will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of any bond to less than its full penal sum. Strengthening bonds shall show the current date of execution and effective date.

(72 Stat. 1352, 1394; 26 U.S.C. 5175, 5551)

§ 252.67 New or superseding bonds.

New bonds shall be required in case of insolvency or removal of any surety, and may, at the discretion of the assistant regional commissioner, be required in any other contingency affecting the validity or impairing the efficiency of such bond. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, shall execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. Where, under the provisions of § 252.72, the surety on any bond given under this subpart has filed an application to be relieved of liability under said bond and the principal desires or intends to continue the business or operations to which such bond relates, he shall file a valid superseding bond to be effective on or before the date specified in the surety's notice. If the principal does not file a new or superseding bond when required, he shall discontinue the operations intended to be covered by such bond forthwith. New or superseding bonds shall show the current date of execution and the effective date.

(72 Stat. 1336, 1362, 1393; 26 U.S.C. 5062, 5214, 5522)

Termination of Bonds

§ 252.70 Termination of bonds, Forms 2734 and 2736.

Bonds, Forms 2734 and 2736, covering a specific lot of distilled spirits or wines withdrawn without payment of tax under this part, will be canceled by the assistant regional commissioner on receipt by him of Form 206 properly executed by the appropriate customs official or armed services officer, as required by this part, evidencing that the distilled spirits or wines have been duly exported, laden for use on vessels or aircraft, deposited in a foreign-trade zone, or deposited in a manufacturing bonded warehouse, as the case may be, or of evidence satisfactory to him that the distilled spirits or wines have been otherwise lawfully disposed of or accounted for: *Provided,* That all liability under the bond to be canceled has been terminated.

(72 Stat. 1352, 1393; 26 U.S.C. 5175, 5522)

§ 252.71 Termination of bonds, Forms 2735, 2737, and 2738.

Continuing bonds, Forms 2735 and 2737, covering distilled spirits and/or wines withdrawn from time to time without payment of tax under this part and Form 2738 covering allowance of claims for drawback on distilled spirits and/or wines removed as authorized in §§ 252.171, 252.201, and 252.211, may be terminated as to liability for future withdrawals or claims (a) pursuant to application of surety as provided in § 252.72, (b) on approval of a superseding bond, or (c) on written notification to the assistant regional commissioner by the principal of his discontinuance of withdrawals or claims, as the case may be, under the bond. When no further withdrawals are to be made under a bond on Form 2735 or 2737, or no further claims for drawback are to be filed under bond Form 2738, the bond shall be canceled by the assistant regional commissioner in the manner and subject to the conditions provided in § 252.70.

(72 Stat. 1336, 1349, 1352, 1353, 1393; 26 U.S.C. 5062, 5173, 5175, 5176, 5522)

§ 252.72 Application of surety for relief from bond.

A surety on any bond given on Forms 2735, 2737, or 2738, may at any time in writing notify the principal and the assistant regional commissioner in whose office the bond is on file that he desires, after a date named, to be relieved of liability under said bond. Such date shall be not less than 90 days after the date the notice is received by the assistant regional commissioner. This notice may not be given by an agent of the surety unless it is accompanied by a power of attorney, duly executed by the surety, authorizing him to give such notice, or by a statement, executed under the penalties of perjury, that such power of attorney is on file with the Commissioner of Accounts, Surety Bonds Branch, Treasury Department. The surtey shall also file with the assistant regional commissioner an acknowledgment or other proof of service on the principal. If such notice is not thereafter in writing withdrawn, the rights of the principal as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relived from liability to the extent set forth in § 252.73(b).

(68A Stat. 749, 72 Stat. 1336, 1354, 1362, 1393; 26 U.S.C. 6065, 5062, 5175, 5214, 5522)

§ 252.73 Relief of surety from bond.

(a) *Bonds, Forms 2734 and 2736.* The surety on a bond given on Form 2734 or Form 2736 shall be relieved from his liability under the bond when the bond has been canceled as provided for in § 252.70.

(b) *Bonds, Forms 2735, 2737, and 2738.* Where the surety on a bond given on Form 2735, Form 2737, or on Form 2738 has filed application for relief from liability, as provided in § 252.72, the surety shall be relieved from liability for withdrawals or claims, as the case may be, made wholly subsequent to the date specified in the notice, or on the effective date of a superseding bond, if one is given. Notwithstanding such relief, the liability of the surety shall continue until the spirits and/or wines withdrawn without payment of tax or included in a claim for drawback of tax allowed under the bond have been properly accounted for.

(72 Stat. 1349, 1352, 1353, 1392; 26 U.S.C. 5173, 5175, 5176, 5521)

§ 252.74 Release of pledged securities.

Securities of the United States, pledged and deposited as provided in § 252.53, shall be released only in accordance with the provisions of 31 CFR Part 225. Such securities will not be released by the assistant regional commissioner until liability under the bond for which they were

pledged has been terminated. When the assistant regional commissioner is satisfied that they may be released, he shall fix the date or dates on which a part or all of such securities may be released. At any time prior to the release of such securities, the assistant regional commissioner may extend the date of release for such additional length of time as he deems necessary.

(61 Stat. 650; 6 U.S.C. 15)

CHARGES AND CREDITS

§ 252.80 Charges and credits on bonds.

The withdrawal of liquors without payment of tax or of specially denatured spirits free of tax, under the provisions of this part shall constitute a charge against the bond under which the withdrawal is made of (1) the tax on the liquors withdrawn or (2) of an amount equal to the tax on specially denatured spirits withdrawn that will be due in the event of failure to account for the specially denatured spirits as provided in this part. The tax on liquors so withdrawn, or an amount equal to the tax on specially denatured spirits so withdrawn that would be due as set forth above, shall, on the required accounting for such liquors or specially denatured spirits, constitute a credit to the bond of such tax or amount equal to the tax, as the case may be. Provisions regarding charges and credits on drawback bonds are contained in Subpart P of this part.

Subpart E—Withdrawal of Distilled Spirits Without Payment of Tax for Exportation, Use on Vessels and Aircraft, Transfer to a Foreign-Trade Zone, or Transportation to a Manufacturing Bonded Warehouse

§ 252.91 General.

Distilled spirits on which the internal revenue tax has not been paid or determined may, subject to this part, be withdrawn from the bonded premises of a distilled spirits plant without payment of tax for:

(a) Exportation;

(b) Use on the vessels or aircraft described in § 252.21;

(c) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation; or

(d) Transportation to and deposit in a manufacturing bonded warehouse.

All such withdrawals shall be made under the applicable bond prescribed in Subpart D of this part.

(48 Stat. 999, as amended, 72 Stat. 1362, 1393; 19 U.S.C. 81c, 26 U.S.C. 5214, 5522)

§ 252.92 Application, Form 206.

(a) *Export, use on vessels and aircraft, and transfer to a foreign-trade zone.* Application for the withdrawal of distilled spirits without payment of tax for exportation from the United States, or for use on vessels and aircraft, or for transfer to a foreign-trade zone, shall be made by the exporter on Form 206, in quadruplicate, except that where the shipment is for use on aircraft, an extra copy, marked "Consignee's Copy", shall be prepared. Where the exporter is not the proprietor of the bonded premises of the distilled spirits plant from which the spirits are to be withdrawn, he shall forward all copies of the form to such proprietor, except that where the withdrawals are being made under the limitations set forth in § 252.62(b), all copies of Form 206 shall be submitted to the internal revenue officer at the designated distilled spirits plant as provided in that section.

(b) *Manufacturing bonded warehouse.* Application for the withdrawal of distilled spirits without payment of tax for transportation to and deposit in a manufacturing bonded warehouse shall be made by the proprietor of such warehouse on Form 206, in quadruplicate. The proprietor shall forward all copies of the application to the proprietor of the bonded premises of the distilled spirits plant from which the spirits are to be withdrawn, except that where the withdrawals are being made under the limitations set forth in § 252.64(b), all copies of Form 206 shall be submitted to the internal revenue officer at the designated distilled spirits plant as provided in that section and in applicable provisions of § 252.62(b).

(72 Stat. 1362, 1393; 26 U.S.C. 5214, 5522)

§ 252.93 Carrier to be designated.

The name of the carrier or carriers to be used in transporting the distilled spirits from the bonded premises of the distilled spirits plant to the port of export, or to the manufacturing bonded warehouse, or to the foreign-trade zone, as the case may be, shall be shown in the application. If the spirits are shipped on a through bill of lading and all carriers handling the spirits while in transit are not known, the name of the carrier to whom the distilled spirits are to be delivered at the shipping premises shall be shown.

(72 Stat. 1362, 1393; 26 U.S.C. 5214, 5522)

§ 252.94 Containers.

Distilled spirits authorized to be withdrawn without payment of tax from the bonded premises of a distilled spirits plant under the provisions of this subpart may be withdrawn from such establishment in such containers as may be authorized in Part 201 of this chapter. Except as otherwise provided in this part, the gauging, packaging, bottling, casing, marking, stamping, and reporting of distilled spirits prior to withdrawal shall be in accordance with the provisions of Part 201 of this chapter.

(46 Stat 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1360, 1362, 1366, 1369, 1374, 1393; 19 U.S.C. 1309, 81c, 26 U.S.C. 5206, 5214, 5233, 5235, 5301, 5522)

§ 252.95 Change of packages for exportation.

Whenever the exporter desires to transfer distilled spirits from packages filled in internal revenue bond to such other suitable packages as may be desired for exportation, such change of packages shall be made under the procedures of Part 201 of this chapter relating to consolidation of packages, and prior to the preparation of Form 206 covering the removal of the distilled spirits.

(72 Stat. 1362; 26 U.S.C. 5214)

§ 252.96 Notice of intention to withdraw; approval of application.

(a) *Bond coverage previously approved.* Where Form 206 has been approved as to bond coverage by an internal revenue officer at another distilled spirits plant, as provided for in §§ 252.62 (b) and 252.64(b), the proprietor shall present all copies of the Form 206 to the internal revenue officer at his plant for his information, and notify him of his intention to withdraw distilled spirits without payment of tax pursuant to such Form 206. If the internal revenue officer is satisfied that the spirits described on the form are eligible for withdrawal, he shall return all copies of the form to the proprietor.

(b) *Bond coverage not approved.* Where prior approval of bond coverage has not been obtained, the proprietor shall submit all copies of Form 206 to the internal revenue officer at his plant for approval of the application. If the internal revenue officer is satisfied that the Form 206 has been properly executed, that the required bond has been filed in a sufficient amount, and that the described spirits are eligible for withdrawal, he shall indicate his approval on all copies of the form and return them to the proprietor.

(72 Stat. 1362; 26 U.S.C. 5214)

§ 252.97 Exportation of spirits after expiration of bonded period not permitted.

Except as to spirits which were 8 years of age, or older, on July 26, 1936, and remained in bonded storage, internal revenue officers shall not permit the withdrawal for exportation of distilled spirits which have remained in bonded storage after the expiration of the 20-year bonded period prescribed by law. In such cases, the internal revenue officer shall note his disapproval across the face of all copies of Form 206 and return them to the proprietor. At the same time he shall (a) inform the proprietor of the distilled spirits plant in which the spirits are stored that the bonded period has expired, (b) determine the tax on the spirits, and (c) forward a report to the assistant regional commissioner in order that tax may be assessed.

(72 Stat. 1320; 26 U.S.C. 5006)

§ 252.98 Inspection and regauge.

The proprietor shall inspect all containers to be withdrawn pursuant to Form 206 and shall regauge all packages: *Provided,* That where distilled spirits are contained in bottles, or in tin, glass, or similar containers, or in sealed metal drums, or where they are to be withdrawn on the filling or original gauge (as authorized in Part 201 of this chapter), a regauge of such spirits need not be made. Any container bearing evidence of tampering, or of unusual loss that cannot be satisfactorily explained, shall be detained pending further investigation in accordance with the applicable provisions of Part 201 of this chapter. Where the withdrawal is to be made subject to regauge, the proprietor shall make such regauge under the direct supervision of the internal revenue of-

ficer and shall make his report of regauge on Form 2630, in quadruplicate. Such direct supervision shall be as defined in Part 201 of this chapter. He shall attach a copy of Form 2630 to each copy of Form 206 and shall enter his report of regauge on all copies of Form 206.

(46 Stat. 690, as amended, 72 Stat. 1358, 1362, 1366, 1369, 1393; 19 U.S.C. 1309, 26 U.S.C. 5204, 5214, 5233, 5235, 5522)

§ 252.99 Reduction in proof.

Distilled spirits contained in packages filled in internal revenue bond may be reduced in proof to not less than 90 degrees for exportation or for transfer to a foreign-trade zone, by the addition of pure water only after the packages have been regauged as provided in § 252.98. Only such addition of water may be made to the body of the spirits in any package as the natural wantage of the package will allow, and the transfer of spirits from one package to another for the purpose of reduction is not permitted. The spirits shall be reduced by the proprietor under the direct supervision of the internal revenue officer.

(72 Stat. 1362; 26 U.S.C. 5214)

§ 252.100 Gauge after reduction.

Where spirits in packages have been reduced in proof under the provisions of § 252.99, the proprietor shall again gauge the packages under the direct supervision of the internal revenue officer and report the details thereof on another set of Forms 2630, in quadruplicate. Any unusual loss ascertained after reduction shall be satisfactorily explained by the proprietor and reported in accordance with the applicable provisions of Part 201 of this chapter. Each such report of gauge shall have noted thereon the statement "Gauge After Reduction", and a copy thereof shall be attached to each copy of Form 206, in addition to the copy of the Form 2630 covering the withdrawal gauge. After the spirits have been reduced and gauged, the proprietor shall also enter his report of such gauge on all copies of Form 206.

(72 Stat. 1362; 26 U.S.C. 5214)

§ 252.101 Packages to be stamped.

Every package and authorized bulk conveyance of spirits (including tank cars and tank trucks but not pipelines) withdrawn without payment of tax under the provisions of this subpart shall have a distilled spirits stamp, overprinted with the word "Export", affixed thereto at the time of its removal from the bonded premises. Such stamps shall be issued by the internal revenue officer on receipt of the withdrawal form and after completion of any required gauge or regauge of the packages or bulk conveyances, and shall be overprinted, affixed, and canceled, in accordance with the provisions of Part 201 of this chapter.

(72 Stat. 1358; 26 U.S.C. 5205)

§ 252.102 Bottles to be stamped.

Every bottle containing distilled spirits bottled in bond to be withdrawn under the provisions of this subpart shall bear an export strip stamp, procured and affixed in accordance with the provisions of Part 201 of this chapter. Every bottle of alcohol bottled for industrial use on the bonded premises of a distilled spirits plant to be withdrawn under the provisions of this subpart shall bear an alcohol strip stamp, procured and affixed in accordance with the provisions of Part 201 of this chapter, and such stamps shall be legibly and indelibly overprinted or stamped on the center of the stamp with the word "Export". Export stamps are not required on cases containing bottles of distilled spirits (including industrial alcohol) filled and stamped on bonded premises.

(72 Stat. 1358, 1369; 26 U.S.C. 5205, 5235)

§ 252.103 Marks and brands.

In addition to the marks and brands required to be placed on packages and cases at the time they are filled under the provisions of Part 201 of this chapter, the proprietor shall place additional marks, as herein specified, on each such container before removal from the bonded premises:

(a) "Export—Without Payment of Tax"—where the spirits are to be withdrawn for export from the United States, or for shipment to the Armed Services for export;

(b) "Use on Vessels (or Aircraft)—Without Payment of Tax"—where the spirits are to be withdrawn for use on vessels or aircraft; or

(c) "Deposit in C.M.B.W.—Cl. 6" followed by the name and address (city or town and State) of the consignee proprietor—where the spirits are to be withdrawn for transportation to and deposit in a manufacturing bonded warehouse; and

(d) Where the spirits are withdrawn for deposit in a foreign-trade zone, in addition to and immediately following the markings prescribed in paragraph (a) of this section, the words "via F.T.Z. No." followed by the number of the zone.

All such markings shall be placed on the containers in the same area and in the same manner as is prescribed by the regulations in Part 201 of this chapter for the affixing of the original marks.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1362, 1393; 19 U.S.C. 1309, 81c, 26 U.S.C. 5214, 5522)

§ 252.104 Certificates of origin.

Since the entry of distilled spirits at ports in certain foreign countries is permitted only upon the filing by the importer of an official certificate showing the origin and age of such spirits, internal revenue officers in charge of distilled spirits plants from which such spirits are withdrawn, may, on request of the applicant, furnish him with a certificate showing the origin and age of the spirits described in the entry for withdrawal, so far as may be determined from the marks and brands on the packages or cases containing the spirits. Such certificates shall be furnished on Form 2177. Form 2177 may also be issued for distilled spirits removed to a foreign-trade zone, in which case the number and location of the foreign-trade zone shall be shown on the form in lieu of the name of the foreign country.

§ 252.105 Release of spirits.

When the spirits are ready for shipment, the proprietor shall execute his report of inspection and tax liability on all copies of Form 206 and submit all copies, with attachments (if any) to the internal revenue officer. If the internal revenue officer is satisfied that there has been compliance with all applicable requirements of the regulations, including the stamping and marking requirements, he shall execute his release of the spirits on all copies of Form 206.

(72 Stat. 1362; 26 U.S.C. 5214)

§ 252.106 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of distilled spirits withdrawn without payment of tax under this subpart shall be made under the provisions of Subpart M.

(72 Stat. 1362; 26 U.S.C. 5214)

§ 252.107 Disposition of forms.

When the distilled spirits have been removed, the internal revenue officer shall forward one copy of Form 206, with Form(s) 2630, if any, attached, to the assistant regional commissioner, and deliver the original and remaining copies with attachments (if any), to the proprietor of the distilled spirits plant. The proprietor shall retain one copy of each form, and deliver the original and one copy of each form to the officer to whom the shipment is consigned, or in whose care it is shipped, as required by Subpart M of this part. In the case of shipment by tank truck, the forms should be placed in a properly addressed sealed envelope and handed to the driver of the tank truck for delivery to the officer. Where the shipment is for delivery for use on aircraft, the copy marked "Consignee's Copy", provided for in § 252.92, shall be forwarded to the airline company at the airport.

(72 Stat. 1362; 26 U.S.C. 5214)

LOSSES

§ 252.110 Losses.

Where there has been a loss of distilled spirits while in transit from the bonded premises of a distilled spirits plant to a port of export, a manufacturing bonded warehouse, a vessel or aircraft, or a foreign-trade zone, the provisions of Subpart O of this part, with respect to losses of spirits after withdrawal without payment of tax and to claims for remission of the tax thereon, shall be applicable.

(72 Stat. 1323; 26 U.S.C. 5008)

RETURN OF SPIRITS TO BONDED PREMISES

§ 252.115 General.

On application of the proprietor of a distilled spirits plant, spirits which have been lawfully withdrawn without payment of tax under the provisions of this subpart for exportation, or for deposit in a foreign-trade zone, or for deposit in a manufacturing bonded warehouse, or for use on vessels and aircraft may, for good cause, be returned:

(a) To the bonded premises of any distilled spirits plant authorized to pro-

duce distilled spirits, for redistillation; or

(b) To the bonded premises from which withdrawn, for storage pending subsequent removal for lawful purposes: *Provided,* That such spirits are returned before they are exported, deposited in a foreign-trade zone, deposited in a manufacturing bonded warehouse, or laden as supplies upon or used on vessels or aircraft, as the case may be.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 252.116 Application for return of spirits withdrawn without payment of tax.

Where a proprietor of a distilled spirits plant desires to return spirits to his plant as provided in § 252.115, he shall submit a written application, in quintuplicate, to the assistant regional commissioner for the region in which his plant is located, for approval of the return of the spirits. The application shall show:

(a) Name, address, and plant number of the distilled spirits plant to which the spirits are to be returned.

(b) Name, address, and plant number of the distilled spirits plant which packaged or bottled the spirits.

(c) Name, address, and plant number of the distilled spirits plant from which the spirits were withdrawn.

(d) Name and address of the principal on the bond under which the spirits were withdrawn.

(e) Serial number of the Form 206 and the date withdrawn.

(f) Present location of spirits to be returned.

(g) Kind of spirits to be returned.

(h) Number, kind, and serial numbers of the containers to be returned. In case of bottled spirits, the number and size of the bottles in each case.

(i) Total quantity in proof gallons of spirits to be returned.

(j) Reason for return of spirits.

(k) Disposition to be made of returned spirits, i.e., redistillation or return to bonded storage.

The application shall be executed under the penalties of perjury. On approval of the application the assistant regional commissioner shall forward the original and two copies to the internal revenue officer in charge of the plant, and return two copies to the proprietor, who, in turn, shall deliver them to the exporter.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 252.117 Responsibility for return of spirits.

The principal on the bond under which the spirits were withdrawn without payment of tax shall be responsible for arranging the return of the spirits to the distilled spirits plant authorized to receive them. In case of emergency, the principal on the bond may arrange the return of spirits to bonded premises without an approved application, but such spirits shall be kept separate at the bonded premises and shall not be gauged (if required) or recorded in the records and reports of the proprietor until an approved application for such return has been obtained as provided in § 252.115. Such principal or his agent shall present to the appropriate customs official the two copies of the approved application authorizing the return unless the spirits are returned before the Form 206 has been filed with the customs official. The customs officer shall, if he finds that the spirits are eligible for return under § 252.115, accept the approved application as authority for the return of the spirits to the distilled spirits plant noted on the application and shall mark each copy of Form 206 "Canceled", note the date thereon, affix a copy of the approved application to each set of the canceled Forms 206, return both sets to such principal, and, where the spirits are in his custody, release them for return. The canceled sets of Form 206, with attachments, shall be delivered by such principal or his agent to the internal revenue officer at the distilled spirits plant. When spirits have been returned before the withdrawal forms were filed with customs officials, the two copies of the approved application shall be submitted, by the principal or his agent, to the internal revenue officer who shall cancel and date each copy of Form 206 and affix copies of the approved application thereto.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

252.118 Disposition of forms.

The receipt, gauge, and disposition of the distilled spirits at the distilled spirits plant shall be in accordance with the applicable provisions of Part 201 of this chapter. On receipt of the report of gauge, Form 2630, from the proprietor, the internal revenue officer shall endorse, on each copy of the approved application to return the spirits, the date received and the total amount in proof gallons, and affix his signature and title. He shall forward the original Form 206, with attachments, to the assistant regional commissioner designated on the form, the original of the endorsed application, with Form 2630 to the assistant regional commissioner of his region, a copy of the endorsed application to the proprietor of the distilled spirits plant from which the spirits were withdrawn, deliver the copy of Form 206 (with attachments) and a copy of Form 2630 to the proprietor of the distilled spirits plant receiving the returned spirits, and retain a copy of the endorsed application and Form 2630 for his files.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

Subpart F—Withdrawal of Wine Without Payment of Tax for Exportation, Use on Vessels and Aircraft, Transfer to a Foreign-Trade Zone, or Transportation to a Manufacturing Bonded Warehouse

§ 252.121 General.

Wine may, subject to this part, be withdrawn from a bonded wine cellar, without payment of tax, for:

(a) Exportation;

(b) Use on the vessels and aircraft described in § 252.21;

(c) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation; or

(d) Transportation to and deposit in a manufacturing bonded warehouse.

All such withdrawals shall be made under the applicable bond prescribed in Subpart D.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1380, 1393; 19 U.S.C. 1309, 81c, 26 U.S.C. 5362, 5522)

§ 252.122 Application or notice, Form 206.

(a) *Export, use on vessels and aircraft, and transfer to a foreign-trade zone.* The exporter shall, where he is not the proprietor of the bonded wine cellar from which the wine is to be withdrawn, make application on Form 206, in quadruplicate, to the assistant regional commissioner of the region in which the bonded wine cellar is located, for approval of the withdrawal. Where the exporter is the proprietor of the bonded wine cellar from which the wine is to be withdrawn he shall, at the time of withdrawal of the wine, file a notice of such withdrawal on Form 206, in quadruplicate, with the assistant regional commissioner of the region in which the bonded wine cellar is located. Prior approval by the assistant regional commissioner is not required where the withdrawal is by the proprietor of the bonded wine cellar. In any case, where the withdrawal is for shipment for use on aircraft, an extra copy of Form 206, marked "Consignee's Copy", shall be prepared.

(b) *Manufacturing bonded warehouse.* Application for the withdrawal of wine without payment of tax for transportation to and deposit in a manufacturing bonded warehouse, shall be made by the proprietor of such warehouse on Form 206, in quadruplicate. The proprietor shall forward all copies of the application to the assistant regional commissioner, of the region in which is located the bonded wine cellar from which the wine is to be withdrawn, for approval prior to withdrawal of the wine.

(c) *Action by assistant regional commissioner.* Where, under the provisions of paragraphs (a) and (b) of this section, a Form 206 is submitted to the assistant regional commissioner for approval, the assistant regional commissioner shall, if satisfied that the application is in order and that the applicant has on file a good and sufficient bond, approve all copies of the application and forward all copies to the proprietor of the premises from which the wines are to be withdrawn.

(d) *Restriction on shipment.* Where, under the provisions of paragraphs (a) and (b) of this section, prior approval of Form 206 by the assistant regional commissioner is required, the proprietor of the bonded wine cellar may not ship the wine until the approved Forms 206 have been received by him. In such cases, the proprietor of the bonded wine cellar shall, on removal of the wines, execute his certificate of removal on Form 206.

(72 Stat. 1380, 1393; 26 U.S.C. 5362, 5522)

§ 252.123 Marks and brands.

In addition to the marks and brands required to be placed on the containers at the time they are filled under the provisions of Part 240 of this chapter, the proprietor shall place additional marks,

as herein specified, on each container before removal from the bonded premises:

(a) "Export—Without Payment of Tax"—where the wine is to be withdrawn for export from the United States, or for shipment to the Armed Services for export;

(b) "Use on Vessels (or Aircraft)—Without Payment of Tax"—where the wine is to be withdrawn for use on vessels or aircraft; or

(c) "Deposit in C.M.B.W.—Cl. 6" followed by the name and address (city or town and State) of the consignee proprietor—where the wine is withdrawn for transportation to and deposit in a manufacturing bonded warehouse; and

(d) Where the wine is withdrawn for deposit in a foreign-trade zone, in addition to and immediately following the markings prescribed in paragraph (a), the words "via F.T.Z. No." followed by the number of the zone.

All such markings shall be placed on the containers in the same area and in the same manner as is prescribed by the regulations in Part 240 of this chapter for the affixing of the original marks.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1380, 1393; 19 U.S.C. 1309, 81c, 26 U.S.C. 5362, 5522)

§ 252.124 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of wines withdrawn without payment of tax under this subpart shall be made under the provisions of Subpart M of this part.

(72 Stat. 1380; 26 U.S.C. 5362)

§ 252.125 Disposition of forms.

On removal of the wines from the premises of the bonded wine cellar, the proprietor shall forward one copy of Form 206 to the assistant regional commissioner, retain one copy for his files, and deliver the original and remaining copy to the officer to whom the shipment is consigned, or in whose care it is shipped, as required by Subpart M. Where the shipment is for delivery for use on aircraft, the copy marked "Consignee's Copy", provided for in § 252.122, shall be forwarded to the airline company at the airport.

(72 Stat. 1380; 26 U.S.C. 5362)

§ 252.126 Proprietor's report.

The records of the proprietor of the bonded wine cellar shall reflect the quantity of wine removed without payment of tax under this subpart, and he shall report the quantity of wine so removed on Form 702.

(72 Stat. 1380; 26 U.S.C. 5362)

§ 252.127 Losses.

Where there has been a loss of wines while in transit from a bonded wine cellar to a port of export, a foreign-trade zone, a vessel or aircraft, or a manufacturing bonded warehouse, the provisions of Subpart O of this part, with respect to losses of wines after withdrawal without payment of tax and to claims for remission of the tax thereon, shall be applicable.

(72 Stat. 1381, 1382; 26 U.S.C. 5370, 5371)

RETURN OF WINES TO BONDED WINE CELLAR

§ 252.130 General.

On application of the proprietor of a bonded wine cellar, wines which have been lawfully withdrawn without payment of tax under the provisions of this subpart for exportation or for use on vessels and aircraft, or for deposit in a foreign-trade zone, or for deposit in a manufacturing bonded warehouse may, for good cause, be returned to the bonded wine cellar from which withdrawn, for storage pending subsequent removal for lawful purposes: *Provided,* That such wines are returned before they are exported, laden as supplies upon or used on vessels or aircraft, deposited in a foreign-trade zone, or deposited in a manufacturing bonded warehouse, as the case may be.

(72 Stat. 1380; 26 U.S.C. 5362)

§ 252.131 Application for return of wines withdrawn without payment of tax.

Where a proprietor of a bonded wine cellar desires to return wines to his bonded wine cellar as provided in § 252.130, he shall submit a written application, in duplicate, to the assistant regional commissioner for the region in which his premises are located, for approval of the return of the wines. The application shall show:

(a) Name, address, and registry number of the bonded wine cellar.

(b) Name and address of the principal on the bond under which the wines were withdrawn.

(c) Serial number of the Form 206 and the date withdrawn.

(d) Present location of wines to be returned.

(e) Kind of wines to be returned.

(f) Number, kind, and serial numbers of the containers to be returned. In the case of bottled wines, the number and size of the bottles in each case.

(g) Total quantity in wine gallons for each separate tax class of wines to be returned.

(h) Reason for return of the wines.

The application shall be executed under the penalties of perjury. On approval of the application the assistant regional commissioner shall return both copies to the proprietor, who, in turn, shall deliver them to the exporter.

(72 Stat. 1380; 26 U.S.C. 5362)

§ 252.132 Responsibility for return of wine.

The principal on the bond under which the wines were withdrawn without payment of tax shall be responsible for arranging the return of the wines to the bonded wine cellar from which they were withdrawn. In case of emergency, the principal on the bond may arrange the return of wines to bonded premises without an approved application, but such wines shall be kept separate at the bonded premises and shall not be recorded in the records and reports of the proprietor until an approved application for such return has been obtained as provided in § 252.131. Such principal or his agent shall present to the appropriate customs official the two copies of the approved application authorizing the return unless the wines are returned before the Form 206 has been filed with the customs official. The customs officer shall, if he finds that the wines are eligible for return under § 252.130, accept the approved application as authority for the return of the wines to the bonded wine cellar noted on the application and shall mark each copy of Form 206 "Canceled", note the date thereon, affix a copy of the approved application to each of the canceled Forms 206, return both Forms 206 to the principal, and, where the wines are in his custody, release them for return. The canceled Forms 206, with attachments, shall be delivered by such principal or his agent to the proprietor of the bonded wine cellar. When wines have been returned before the Forms 206 were filed with customs officials, the two copies of the approved application shall be submitted, by the principal or his agent, to the proprietor of the bonded wine cellar who shall cancel and date each copy of Form 206 and affix copies of the approved application thereto.

(72 Stat. 1380; 26 U.S.C. 5362)

§ 252.133 Disposition of forms.

On receipt of the wines at the bonded wine cellar, the proprietor shall endorse, on each copy of the approved application to return the wines, the date received, the total amount in wine gallons of each tax class of wine returned, and affix his signature. He shall forward the original Form 206, with attached application, to the assistant regional commissioner of the region in which his premises are located, and retain the remaining copy for his files. The storage, disposition, and records pertaining to such returned wines shall be in accordance with the applicable provisions of Part 240 of this chapter.

(72 Stat. 1380; 26 U.S.C. 5362)

Subpart G—Removal of Beer Without Payment of Tax for Exportation, Use as Supplies on Vessels and Aircraft, or Transfer to a Foreign-Trade Zone

§ 252.141 General.

Beer, may, subject to this part, be removed from the brewery without payment of tax, for:

(a) Export to a foreign country;

(b) Use as supplies on the vessels and aircraft described in § 252.21; or

(c) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation.

All such removals shall be made under the brewer's bond, Form 1566, as prescribed in § 252.60.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1334; 19 U.S.C. 1309, 81c, 26 U.S.C. 5053)

§ 252.142 Notice, Form 1689.

Whenever a brewer intends to remove beer without payment of tax from the brewery for exportation from the United States or for use as supplies on vessels and aircraft or for transportation to and deposit in a foreign-trade zone, he shall

prepare a notice for each such withdrawal on Form 1689, in quadruplicate, except that where the shipment is for use on aircraft, an extra copy, marked "Consignee's Copy", shall be prepared.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1334; 19 U.S.C. 1309, 81c, 26 U.S.C. 5053)

§ 252.143 Marks and brands.

In addition to the marks and brands prescribed in Part 245 of this chapter, each keg, barrel, case, crate, or other package containing beer to be removed without payment of tax under this subpart, shall be marked as specified below:

(a) "Export—Without Payment of Tax"—where the beer is to be removed for export from the United States, or for shipment to the Armed Services for export;

(b) "Use on Vessels (or Aircraft)—Without Payment of Tax"—where the beer is to be removed for use as supplies on vessels or aircraft; and

(c) Where the beer is removed for deposit in a foreign-trade zone, in addition to and immediately following the markings prescribed in paragraph (a) of this section, the words "via F.T.Z. No." followed by the number of the zone.

All such markings shall be placed on the containers in the same manner as is prescribed by the regulations in Part 245 of this chapter for the affixing of the original marks.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1334; 19 U.S.C. 1309, 81c, 26 Stat. 5053)

§ 252.144 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of beer removed from a brewery without payment of tax under this subpart shall be in accordance with the applicable provisions of Subpart M.

(72 Stat. 1334; 26 U.S.C. 5053)

§ 252.145 Disposition of forms.

On removal of the beer withdrawn under the provisions of this subpart, the brewer shall forward one copy of Form 1689 to the assistant regional commissioner, retain one copy for his files, and deliver the original and remaining copy to the officer to whom the shipment is consigned, or in whose care it is shipped, as required by Subpart M of this part. Where the shipment is for delivery for use on aircraft, the copy marked "Consignee's Copy", provided for in § 252.142, shall be forwarded to the airline company at the airport.

(46 Stat. 690, as amended, 72 Stat. 1334; 19 U.S.C. 1309, 26 U.S.C. 5053)

§ 252.146 Return of beer.

Beer removed without payment of tax under the provisions of this subpart may be returned to the brewery from which removed if lading of the beer is delayed more than the period provided in § 252.262 or where the brewer has other good cause for such return. The brewer shall request the collector of customs to release the beer for return to the brewery and, on such release, the collector of customs shall endorse both copies of the appropriate Form 1689 to show his release of the beer, and return the forms to the brewer. On return of the beer to the brewery, the brewer shall record the quantity in his daily records, mark the two copies of Form 1689 returned by the collector of customs, "Canceled—returned to brewery", and forward one copy to the assistant regional commissioner. The total quantity of beer involved in all export shipments returned during any calendar month shall be reported as a special entry on Form 103.

(72 Stat. 1334, 1335; 26 U.S.C. 5053, 5056)

§ 252.147 Brewer's report.

The brewer's records shall reflect the quantity of beer removed without payment of tax under this subpart, and he shall report the quantity of beer so removed on Form 103.

(72 Stat. 1334; 26 U.S.C. 5053)

§ 252.148 Losses.

Where there has been a loss of beer while in transit from the brewery to a port for exportation, or for lading as supplies on a vessel or aircraft, or to a foreign-trade zone, the provisions of Subpart O of this part, with respect to losses of beer after removal without payment of tax, shall be applicable.

(72 Stat. 1333, 1334; 26 U.S.C. 5051, 5053)

Subpart H—Withdrawal of Specially Denatured Spirits, Free of Tax, for Exportation or Transfer to a Foreign-Trade Zone

§ 252.151 General.

Specially denatured spirits may, under this part, be withdrawn from the bonded premises of a distilled spirits plant, free of tax, for:

(a) Exportation; or

(b) Transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation.

All such withdrawals shall be made under a consent of surety on the proprietor's bond, Form 2601, as prescribed in § 252.58(c).

(48 Stat. 999, as amended, 72 Stat. 1362; 19 U.S.C. 81c, 26 U.S.C. 5214)

§ 252.152 Application, Form 206.

Application for withdrawal of specially denatured spirits, as authorized in § 252.151, shall be made on Form 206, in quadruplicate, by the proprietor of the distilled spirits plant from which the denatured spirits are to be withdrawn. All copies of the form shall be delivered to the internal revenue officer at the plant.

(48 Stat. 999, as amended, 72 Stat. 1362; 19 U.S.C. 81c, 26 U.S.C. 5214)

§ 252.153 Withdrawal procedure.

The provisions of §§ 252.93, 252.94, 252.98, 252.105, and 252.117 in respect of method of conveyance, authorized containers, gauging, inspection, approval and release, report of removal, and disposition of forms shall be applicable to specially denatured spirits to be withdrawn under the provisions of this subpart.

(48 Stat. 999, as amended, 72 Stat. 1362; 19 U.S.C. 81c, 26 U.S.C. 5214)

§ 252.154 Marking containers.

In addition to the marks and brands required to be placed on the containers at the time they are filled under the provisions of Part 201 of this chapter, the proprietor shall place additional marks, as herein specified, on each container before removal from the bonded premises:

(a) "Export—Tax-Free"—where the specially denatured spirits are to be withdrawn for export from the United States; and

(b) Where the specially denatured spirits are withdrawn for deposit in a foreign-trade zone, in addition to and immediately following the markings precribed in paragraph (a) of this section, the words "via F.T.Z. No." followed by the number of the zone.

All such markings shall be placed on the containers in the same area and in the same manner as is prescribed by the regulations in Part 201 of this chapter for the affixing of the original marks.

(48 Stat. 999, as amended, 72 Stat. 1362; 19 U.S.C. 81c, 26 U.S.C. 5214)

§ 252.155 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of specially denatured spirits withdrawn free of tax under this subpart shall be made under the provisions of Subpart M of this part.

(48 Stat. 999, as amended, 72 Stat. 1362; 19 U.S.C. 81c, 26 U.S.C. 5214)

§ 252.156 Losses.

Where there has been a loss of specially denatured spirits while in transit from the bonded premises of a distilled spirits plant to a port of export or a foreign-trade zone, the exporter shall file claim for allowance of the loss in accordance with the provision of Subpart O of this part.

Return of Specially Denatured Spirits to Bonded Premises

§ 252.160 General.

On application of the proprietor of a distilled spirits plant, specially denatured spirits, which have been lawfully withdrawn free of tax under the provisions of this part for exportation, or for deposit in a foreign-trade zone, may be returned—

(a) To the bonded premises of any distilled spirits plant authorized to produce distilled spirits, for redistillation; or

(b) To the bonded premises of any distilled spirits plant for storage pending subsequent lawful withdrawal free of tax: *Provided*, That such specially denatured spirits are returned before they are exported, or deposited in a foreign-trade zone, as the case may be.

Where the specially denatured spirits are to be returned to bonded premises for storage, without redistillation, the proprietor shall also execute a consent of surety on Form 1533 to extend the terms of his bond, Form 2601, to cover the return and storage of such specially denatured spirits.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 252.161 Application for return of specially denatured spirits.

Where a proprietor of a distilled spirits plant desires to return specially denatured spirits to his plant as provided in § 252.160, he shall submit a written application, in quintuplicate, to the assistant regional commissioner for the region in which his plant is located, for approval of the return of the spirits. The application shall show:

(a) Name, address, and plant number of the distilled spirits plant to which the specially denatured spirits are to be returned.

(b) Name, address, and plant number of the distilled spirits plant from which the specially denatured spirits were withdrawn.

(c) Serial number of the Form 206 and the date withdrawn.

(d) Present location of specially denatured spirits to be returned.

(e) Description of the specially denatured spirits—kind, serial numbers of containers, and quantity in wine gallons.

(f) Reason for return of the specially denatured spirits.

(g) Disposition to be made of returned specially denatured spirits, i.e., redistillation or return to bonded premises for storage.

The application shall be executed under the penalties of perjury. On approval of the application, the assistant regional commissioner shall forward the original and two copies to the internal revenue officer in charge of the plant, and return two copies to the proprietor, who, in turn, shall deliver them to the exporter.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 252.162 Responsibility for return of specially denatured spirits.

The principal on the bond under which the specially denatured spirits were withdrawn free of tax shall be responsible for arranging the return of such spirits to the distilled spirits plans authorized to receive them. In case of emergency, the principal on the bond may arrange the return of the specially denatured spirits to bonded premises without an approved application, but such spirits shall be kept separate at the bonded premises and shall not be gauged or recorded in the records and reports of the proprietor until an approved application for such return has been obtained. Such principal or his agent shall present to the appropriate customs official the two copies of the approved application authorizing the return unless the specially denatured spirits are returned before the Form 206 has been filed with the customs officials. The customs officer shall, if he finds that the specially denatured spirits are eligible for return under § 252.160, accept the approved application as authority for the return of the specially denatured spirits to the distilled spirits plant noted on the application and shall mark each copy of Form 206 "Canceled", note the date thereon, affix a copy of the approved application to each set of the canceled Forms 206, return both sets to the principal, and, where the spirits are in his custody, release them for return. The canceled sets of Form 206, with attachments, shall be delivered by the principal or his agent to the internal revenue officer at the distilled spirits plant. When specially denatured spirits have been returned before the Form 206 was filed with customs officials, the two copies of the approved application together with the two sets of Form 206 shall be submitted, by the principal or his agent, to the internal revenue officer who shall cancel and date each copy of Form 206 and affix copies of the approved application thereto.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

§ 252.163 Disposition of forms.

The receipt, gauge, and disposition of the specially denatured spirits at the distilled spirits plant shall be in accordance with the applicable provisions of Part 201 of this chapter. On receipt of the report of gauge from the proprietor, the internal revenue officer shall endorse, on each copy of the approved application to return the specially denatured spirits, the date received and the total amount in wine gallons, and affix his signature and title. He shall forward the original Form 206, with attachments, to the assistant regional commissioner designated on the form, the original of the endorsed application to the assistant regional commissioner of his region, a copy of the endorsed application to the proprietor of the distilled spirits plant from which the specially denatured spirits were withdrawn, deliver the copy of Form 206 (with attachments) to the proprietor of the distilled spirits plant receiving the returned specially denatured spirits, and retain a copy of the endorsed application and the report of gauge for his files.

(72 Stat. 1362, 1365; 26 U.S.C. 5214, 5223)

Subpart I—Exportation of Distilled Spirits Bottled or Packaged, or Restamped and Marked, Especially for Export With Benefit of Drawback

§ 252.171 General.

Distilled spirits manufactured or produced in the United States on which an internal revenue tax has been paid or determined, and which have been bottled or packaged (including stamping and labeling), or restamped and marked, under the applicable provisions of Part 201 of this chapter, especially for export with benefit of drawback may, subject to this part, be:

(a) Exported;

(b) Laden for use on the vessels or aircraft described in § 252.21; or

(c) Transferred to and deposited in a foreign-trade zone for exportation or for storage pending exportation.

On receipt by the assistant regional commissioner of required evidence of such exportation, lading for use, or transfer, there shall be allowed a drawback equal in amount to the tax found to have been paid or determined on such spirits.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062)

Evidence of Taxpayment of Imported Spirits and Wines

§ 252.175 Customs certification on Form 1583.

Where distilled spirits bottled or packaged, or restamped with marked, especially for export with benefit of drawback are manufactured (rectified) in the United States with the use of imported spirits or wines, the collector of customs at the port where the entry or withdrawal for consumption was made shall, on application in writing by the rectifier, execute a certificate on Form 1583, in triplicate, showing that the internal revenue tax has been collected on the imported spirits or wines described in the application. The collector will forward the original of Form 1583 to the assistant regional commissioner designated in the application, forward one copy to the rectifier, and retain one copy for his files.

(72 Stat. 1336; 26 U.S.C. 5062)

§ 252.176 Application for certificate.

The rectifier shall set forth in his application for the issuance of the certificate, Form 1583, the address of the assistant regional commissioner to whom the form is to be sent, together with sufficient information to enable the collector of customs to identify the importation, such as:

(a) The port of entry,

(b) The entry number,

(c) The name of the importing vessel or other carrier,

(d) The date of importation,

(e) The name of the importer,

(f) The marks and numbers of packages, and

(g) A description of the spirits or wines.

(72 Stat. 1336; 26 U.S.C. 5062)

§ 252.177 Action by assistant regional commissioner.

The assistant regional commissioner will not approve a claim for drawback, Form 1582, or establish a rate of drawback on Form 1656, when the distilled spirits covered thereby are manufactured (rectified) from imported spirits or wines, until the Form 1583 has been received.

(72 Stat. 1336; 26 U.S.C. 5062)

Export Storage

§ 252.180 Export storage at distilled spirits plants.

If the proprietor of a distilled spirits plant intends to receive, store, and remove tax determined distilled spirits which have been bottled or packaged, or restamped and marked, especially for export with benefit of drawback, he shall, except as provided in § 252.181, provide for the storage of such articles on the unbonded premises of the distilled spirits plant or on wholesale liquor dealer premises located on the general premises of the distilled spirits plant or contiguous thereto. During the storage of such distilled spirits they shall be segregated from all articles intended for domestic use, and shall be subject to inspection by internal revenue officers during reg-

ular business hours. The records covering export storage transactions at premises provided under the provisions of this section shall be maintained and reports shall be rendered in accordance with the applicable provisions of Part 201 of this chapter.

(72 Stat. 1336; 26 U.S.C. 5062)

§ 252.181 Noncontiguous off-premises export storage.

The proprietor of a distilled spirits plant may provide storage at any noncontiguous location for the receipt, storage, and removal of tax determined distilled spirits which have been bottled and stamped, or restamped and marked, especially for export with benefit of drawback. The provisions of Part 194 of this chapter shall be applicable to such operation. Records covering export storage transactions at premises established under the provisions of this section shall be kept at each such place of storage. The records shall be kept and reports shall be rendered in accordance with the applicable provisions of Part 194 of this chapter.

(72 Stat. 1336; 26 U.S.C. 5062)

§ 252.182 Wholesale liquor dealers export storage.

The establishment and the maintenance of export storage by wholesale liquor dealers shall be in accordance with the applicable provisions of Part 194 of this chapter.

(72 Stat. 1336; 26 U.S.C. 5062)

TRANSFER AND STORAGE PENDING EXPORTATION

§ 252.185 Use of export storage.

Export storage established under the provisions of § 252.180, may be used for the storage, pending exportation or transfer to other premises for export storage, of tax determined distilled spirits which have been bottled or packaged, or restamped and marked, especially for export by the proprietor or other qualified persons. Export storage provided by a wholesale liquor dealer under the provisions of Part 194 of this chapter, or by the proprietor of a distilled spirits plant under the provisions of § 252.181, may be used for the storage, pending exportation or transfer to other premises for export storage, of tax determined distilled spirits which have been bottled and stamped, or restamped and marked, especially for export with benefit of drawback and are in immediate containers having a capacity not in excess of 1 wine gallon.

(72 Stat. 1336; 26 U.S.C. 5062)

§ 252.186 Notice of transfer, Form 1656.

Distilled spirits bottled or packaged, or restamped and marked, especially for export with benefit of drawback may, pursuant to notice on Form 1656, and subject to the limitations set forth in § 252.185, be transferred from any export storage established under the provisions of §§ 252.180 and 252.181 and of Part 194 of this chapter, to any other export storage established thereunder for storage, pending transfer to other premises for export storage or removal for (a) direct exportation, or (b) for use as supplies on vessels or aircraft, or (c) for transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation. Form 1656 shall be executed in triplicate (or quadruplicate if the consignee is located in another region) by the consignor-proprietor of the export storage.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062)

§ 252.187 Transfer from export storage.

On shipment of the cases or packages described on Form 1656, the proprietor shall execute the report of removal on all copies of the form, retain one copy, and, in the case of intraregion shipments, forward the original and one copy to the assistant regional commissioner of the region in which the consignor's premises are located. In the case of interregion shipments, an additional copy shall be forwarded to such assistant regional commissioner.

(72 Stat. 1336; 26 U.S.C. 5062)

§ 252.188 Establishment of drawback rate.

On receipt of Form 1656, the assistant regional commissioner shall establish the rate of drawback on the distilled spirits described on the application and make notation of such rate on the form. Where imported spirits or wines were used in the manufacture of the spirits bottled or packaged, or restamped and marked, especially for export with benefit of drawback, the assistant regional commissioner shall not establish the rate of drawback on Form 1656 prior to receipt from the collector of customs of Form 1583. The assistant regional commissioner shall, upon notation of the rate of drawback on Form 1656, retain the original when the consignee is located in the same region, and forward the remaining copy to the consignee. In the case of interregion shipments, the original shall be forwarded to the assistant regional commissioner of the consignee's region, a copy shall be retained, and the remaining copy shall be forwarded to the consignee.

(72 Stat. 1336; 26 U.S.C. 5062)

FILING OF NOTICE, AND REMOVAL

§ 252.190 Notice and claim, Form 1582.

Notice of intention to remove distilled spirits from export storage for export, for use as supplies on vessels or aircraft, or for deposit in a foreign-trade zone, shall be prepared by the exporter on Form 1582, in quadruplicate: *Provided,* That where the withdrawal is for use on aircraft, an extra copy, marked "Consignee's Copy", shall be prepared. Each Form 1582 shall be given, by the exporter, a serial number beginning with "1" for the first day of January of each year and running consecutively thereafter to December 31, inclusive. The exporter shall also execute his claim and entry for drawback on all copies of the form and deliver all copies to the proprietor of the premises from which the distilled spirits are to be removed.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062)

§ 252.191 Claim and entry signed by agent.

Where a claim and entry on Form 1582 is signed by an agent, proper power of attorney authorizing the agent to execute the claim for the exporter shall be filed, on Form 1534, with the assistant regional commissioner with whom the claim is filed.

(72 Stat. 1336; 26 U.S.C. 5062)

§ 252.192 Packages of distilled spirits to be gauged.

Where distilled spirits to be removed have been packaged especially for export with benefit of drawback, the proprietor of the export storage shall gauge the packages prior to preparation of his notice on Form 1582: *Provided,* That where inspection discloses no evidence of loss and removal is made within 30 days from the time of packaging the distilled spirits for export with benefit of drawback, the filling gauge shall be considered the gauge at the time of removal. The internal revenue officer at the distilled spirits plant shall supervise the gauging of the distilled spirits by such proprietor. Report of gauge shall be made by the proprietor on Form 2630, in quadruplicate (appropriately modified), and a copy of the report of gauge shall be attached to each copy of Form 1582 and considered a part thereof. The report of gauge shall be checked by the internal revenue officer by verifying the gauge of a representative number of packages, selected at random.

(72 Stat. 1336; 26 U.S.C. 5062)

§ 252.193 Export marks.

In addition to the marks and brands required to be placed on the containers at the time they are filled under the provisions of Part 201 of this chapter, the proprietor of the export storage shall place additional marks, as herein specified, on each container before removal from export storage for export, for use on vessels or aircraft, or for transfer to a foreign-trade zone:

(a) "Export—Drawback Claimed"—Where the spirits are to be removed for export from the United States; or

(b) "Use on Vessels (or Aircraft)—Drawback Claimed"—Where the spirits are to be removed for use on vessels or aircraft; and

(c) Where the spirits are removed for deposit in a foreign-trade zone, in addition to and immediately following the markings prescribed in (a) above, the words, "via F.T.Z. No." followed by the number of the zone.

All such markings shall be placed on the containers in the same manner and in the same area as is prescribed in Part 201 of this chapter for the affixing of the original marks.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062)

§ 252.194 Removal from export storage.

Where distilled spirits which have been bottled or packaged, or restamped and marked, especially for export with benefit of drawback are to be removed from export storage for export, deposit in a foreign-trade zone, or use as supplies on vessels or aircraft, the cases or packages shall be inspected by the proprietor and removed. When the spirits are shipped, the proprietor shall execute the certificate of removal on Form 1582.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062)

§ 252.195 Disposition of Form 1582.

The proprietor shall forward one copy of Form 1582 to the assistant regional commissioner, retain one copy for his files, and deliver the original and remaining copy (copies) to the exporter. On receipt of the Forms 1582 from the proprietor, the exporter shall immediately forward or deliver the original and one copy to the officer to whom the shipment is consigned, or in whose care it is shipped, as required, by Subpart M of this part. Where the shipment is for delivery for use on aircraft, the copy marked "Consignee's Copy", provided for in § 252.190, shall be forwarded by the exporter to the airline company at the airport.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062)

§ 252.196 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of distilled spirits removed under this subpart for export, use on vessels or aircraft, or for transfer to a foreign-trade zone, shall be in accordance with the applicable provisions of Subpart M of this part.

(72 Stat. 1336; 26 U.S.C. 5062)

Subpart J—Exportation, With Benefit of Drawback, of Distilled Spirits in Casks or Packages Filled in Internal Revenue Bond

§ 252.201 General.

On the exportation, or deposit in a foreign-trade zone for exportation or for storage pending exportation, of distilled spirits in casks or packages filled in internal revenue bond and containing not less than 20 wine gallons each, on which all taxes have been paid or determined, drawback of the internal revenue tax paid or determined may be allowed, subject to compliance with the provisions of this subpart.

(48 Stat. 999, as amended, 72 Stat. 1327; 19 U.S.C. 81c, 26 U.S.C. 5009)

§ 252.202 Application, Form 1629.

Any person desiring to claim drawback under the provisions of § 252.201, shall make application on Form 1629, in triplicate. Where the spirits are to be exported, all copies of the form shall be presented to the collector of customs for the port from which the exportation is to be made in sufficient time for inspection, gauge, and supervision of lading to be made by customs officers. Where the spirits are to be deposited in a foreign-trade zone for exportation or for storage pending exportation, all copies of the form shall be presented to the customs officer in charge of the zone.

(48 Stat. 999, as amended, 72 Stat. 1327; 19 U.S.C. 81c, 26 U.S.C. 5009)

§ 252.203 Customs procedure.

(a) *At port of export.* On receipt of Form 1629, the collector of customs shall deliver all copies to a customs officer. The customs officer shall inspect and gauge the packages, prepare a gauge thereof on Form 696, in triplicate, and completely obliterate the stamps affixed thereto. He shall then cause each package to be marked "Export—Drawback Claimed," and permit the lading of the packages aboard the exporting conveyance. The customs officer shall then execute his certificate on all copies of Form 1629, forward one copy of Form 1629 and Form 696 to the exporter, and return the original and remaining copy of each form to the collector of customs. On clearance of the exporting conveyance, the collector of customs shall execute his certificate on both copies of Form 1629, forward the originals of Form 1629 and 696 to the assistant regional commissioner of the region in which the exporter is located and retain the remaining copy of each form for his files.

(b) *At foreign-trade zone.* On receipt of Form 1629, the customs officer in charge of the foreign-trade zone shall inspect and gauge the packages, prepare a gauge thereof on Form 696, in triplicate, and completely obliterate the stamps affixed thereto. He shall then cause each package to be marked "Export—Drawback Claimed—Via F.T.Z. No." followed by the number of the zone. The customs officer shall then execute his certificate on all copies of Form 1629, forward one copy of Form 1629 and Form 696 to the exporter, and forward the originals of Form 1629 and Form 696 to the assistant regional commissioner of the region in which the exporter is located, and shall retain one copy of each form for his own record.

(48 Stat. 999, as amended, 72 Stat. 1327; 19 U.S.C. 81c, 26 U.S.C. 5009)

§ 252.204 Claim.

The exporter, on receipt of the Forms 1629 and 696 from the customs officer, shall, on the basis of the rate of tax paid or determined, and the quantity, in proof gallons, of distilled spirits shown by the customs gauge on Form 696 to be contained in the packages, compute the amount of eligible drawback on the spirits, and execute his claim for drawback of such amount on the Form 1629. He shall then forward the claim, Form 1629, together with the copy of Form 696, to the assistant regional commissioner of the region in which he is located.

(48 Stat. 999, as amended, 72 Stat. 1327; 19 U.S.C. 81c, 26 U.S.C. 5009)

Subpart K—Exportation of Wine With Benefit of Drawback

§ 252.211 General.

Wines manufactured or produced in the United States on which an internal revenue tax has been paid or determined and contained in packages or unbroken cases, filled on premises qualified under this chapter to package or bottle wines, may, subject to this part, be:

(a) Exported;

(b) Laden for use on the vessels or aircraft described in § 252.21; or

(c) Transferred to and deposited in a foreign-trade zone for exportation or for storage pending exportation.

On receipt by the assistant regional commissioner of required evidence of such exportation, lading for use, or transfer, there shall be allowed a drawback equal in amount to the tax found to have been paid or determined on such wines.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062)

§ 252.212 Persons authorized.

Persons who have qualified under this chapter as proprietors of distilled spirits plants, bonded wine cellars, or taxpaid wine bottling houses, and persons who are wholesale liquor dealers as defined in section 5112, I.R.C., and have paid the required tax as a wholesale liquor dealer, are authorized to remove wines under the provisions of this subpart.

(72 Stat. 1336; 26 U.S.C. 5062)

§ 252.213 Labeling of bottled wines.

Where bottled wines are to be exported with benefit of drawback under the provisions of this subpart, such bottles may be labeled with a label conforming to the provisions of 27 CFR Part 4: *Provided,* That the words "For Export" appear on such label or on a neck label affixed to each bottle. If such bottles are not so labeled, they shall be labeled as follows:

(a) Kind of wines;

(b) Name of bottler;

(c) City or town and State in which bottled;

(d) Alcohol content by volume, except that if not over 14 percent, either the type designations "table wine" or "light wine," or the alcoholic content, shall be stated;

(e) The words "For Export"; and

(f) The net contents of the bottle, unless legibly blown therein.

Such additional information not inconsistent with the foregoing requirements as may be desired by the exporter may also appear on the label.

§ 252.214 Notice and claim, Form 1582–A.

Claim for allowance of drawback of internal revenue taxes on wines removed under the provisions of § 252.211 and § 252.212, shall be prepared by the exporter on Form 1582–A, in quadruplicate: *Provided,* That where the withdrawal is for use on aircraft, an extra copy, marked "Consignee's Copy", shall be prepared. Each Form 1582–A shall be given, by the

exporter, a serial number beginning with "1" for the first day of January of each year and running consecutively thereafter to December 31, inclusive.

(46 Stat. 690, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 26 U.S.C. 5062)

§ 252.215 Certificate of tax determination, Form 2605.

Every claim for drawback of tax on Form 1582–A shall be supported by a certificate, Form 2605, which shall be executed, in duplicate, (a) by the person who withdrew the wine from bond on tax determination, certifying that all taxes have been properly determined on such wine, or (b) where the wine was bottled or packaged after tax determination, by the person who did such bottling or packaging, certifying that the wines so bottled or packaged were received in tax-paid status and specifying from whom they were so received. The assistant regional commissioner may require other evidence of tax payment whenever he deems it necessary. It shall be the responsibility of the exporter to secure Form 2605, properly executed, and to submit the original of such form to the assistant regional commissioner with whom the claim, Form 1582–A, is filed. The exporter shall retain the copy of Form 2605 for his files.

(72 Stat. 1336; 26 U.S.C. 5062)

§ 252.216 Marking of containers.

In addition to the marks and brands required to be placed on each container under the provisions of Parts 201, 231, or 240, of this chapter, each container removed under the provisions of this subpart shall have stenciled or otherwise marked thereon, in durable and legible letters and figures of not less than three-fourths of an inch in height, additional information, as specified below:

(a) "Export—Drawback Claimed"—where the removal is for export from the United States, or for shipment to the armed services for export; or

(b) "Use on Vessels (or Aircraft)—Drawback Claimed"—where the removal is for use on vessels or aircraft; and

(c) Where the wine is removed for deposit in a foreign-trade zone, in addition to and immediately following the markings prescribed in paragraph (a) of this section, the words "via F.T.Z. No." followed by the number of the zone.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062)

§ 252.217 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of wines removed under this subpart shall be made under the provisions of Subpart M of this part.

(72 Stat. 1336; 26 U.S.C. 5062)

§ 252.218 Disposition of Forms 1582–A.

On removal of the wines from the premises, the exporter shall forward one copy of Form 1582–A to the assistant regional commissioner, retain one copy for his files, and deliver the original and remaining copy to the officer to whom the shipment is consigned, or in whose care it is shipped, as required by Subpart M of this part. Where the shipment is for delivery for use on aircraft, the copy marked "Consignee's Copy", provided for in § 252.214, shall be forwarded to the airline company at the airport.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 81c, 26 U.S.C. 5062)

Subpart L—Exportation of Beer With Benefit of Drawback

§ 252.221 General.

Beer brewed or produced in the United States and on which the internal revenue tax has been paid may, subject to this part, be:

(a) Exported;

(b) Delivered for use as supplies on the vessels and aircraft described in § 252.21; or

(c) Transferred to and deposited in a foreign-trade zone for exportation or for storage pending exportation.

Claim for drawback of taxes found to have been paid may be filed only by the producing brewer or his duly authorized agent. On receipt by the assistant regional commissioner of required evidence of such exportation, delivery for use, or transfer, there shall be allowed a drawback equal in amount to the tax found to have been paid on such beer.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1335; 19 U.S.C. 1309, 81c, 26 U.S.C. 5055)

§ 252.222 Claim, Form 1582–B.

Claim for allowance of drawback of internal revenue taxes on beer brewed or produced in the United States shall be prepared on Form 1582–B, in quadruplicate, as required by this part. Each Form 1582–B shall be given, by the person initiating the form, a serial number beginning with "1" for the first day of January of each year and running consecutively thereafter to December 31, inclusive.

(72 Stat. 1335; 26 U.S.C. 5055)

§ 252.223 Marking of containers.

In addition to the marks and brands required to be placed on each container under the provisions of Part 245 of this chapter, each container removed under the provisions of this subpart shall have stenciled or otherwise marked thereon, in durable and legible letters and figures of not less than three-fourths of an inch in height, additional information as specified below:

(a) "Export—Drawback Claimed"—where the removal is for export from the United States, or for shipment to the armed services for export; or

(b) "Use on Vessels (or Aircraft)—Drawback Claimed"—where the removal is for use as supplies on vessels or aircraft; and

(c) Where the beer is removed for deposit in a foreign-trade zone, in addition to and immediately following the markings prescribed in paragraph (a) of this section, the words "via F.T.Z. No." followed by the number of the zone.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1335; 19 U.S.C. 1309, 81c, 26 U.S.C. 5055)

EXECUTION OF CLAIMS

§ 252.225 Removals of beer by brewer.

Where a brewer removes taxpaid beer from the brewery or from its place of storage elsewhere for exportation, for lading for use as supplies on vessels or aircraft, or for deposit in a foreign-trade zone, he shall execute the notice and claim on Form 1582–B. On removal of the beer for shipment the brewer shall file one copy of Form 1582–B with the assistant regional commissioner of his region, retain one copy for his files, and immediately forward the original and one copy of the form:

(a) In case of shipments for export or for use as supplies on vessels or aircraft, to the collector of customs at the port of export; or

(b) In the case of shipments to the armed services of the United States for export, to the commanding or supply officer to whom the shipment is consigned; or

(c) In the case of shipments to a foreign-trade zone, to the customs officer in charge of the zone.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1335; 19 U.S.C. 1309, 81c 26 U.S.C. 5055)

§ 252.226 Removals of beer by agent on behalf of brewer.

Where proper power of attorney authorizing an agent to execute a claim on behalf of the brewer has been filed with the assistant regional commissioner, such agent may, for any of the purposes authorized in § 252.221, remove taxpaid beer from the brewery where produced or from its place of storage elsewhere, and execute the notice and claim on Form 1582–B on behalf of the brewer. On removal of the beer, such agent shall dispose of Form 1582–B in accordance with the applicable procedure set forth in § 252.225.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1335; 19 U.S.C. 1309, 81c 26 U.S.C. 5055)

§ 252.227 Removals of beer by persons other than the brewer or agent of the brewer.

Where there is a removal of taxpaid beer by a person other than the brewer or the agent of the brewer for any of the purposes authorized in § 252.221, such person shall execute the notice, only, on Form 1582–B. Where the removal consists of the products of more than one brewer, separate Forms 1582–B shall be prepared for the products of each brewer. On removal of the beer for shipment such person shall forward two copies of Form 1582–B to the producing brewer, and immediately forward the original and one copy of the form as prescribed in § 252.225 (a), (b), or (c), as the case may be. On receipt of the two copies of Form 1582–B from the exporter, the brewer shall, if he wishes to claim drawback on the beer covered thereby, execute the claim for drawback on both copies of the form, file one copy of the claim with the assistant regional commissioner of his region, and retain the remaining copy for his files.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1335; 19 U.S.C. 1309, 81c, 26 U.S.C. 5055)

CONSIGNMENT, SHIPMENT, AND DELIVERY

§ 252.230 Consignment, shipment, and delivery.

The consignment, shipment, and delivery of taxpaid beer removed under this subpart shall be made under the provisions of Subpart M of this part.

(72 Stat. 1335; 26 U.S.C. 5055)

Subpart M—Shipment or Delivery for Export

CONSIGNMENT

§ 252.241 Shipment for export, or for use on vessels.

All liquors and specially denatured spirits intended for export or liquors intended for use as supplies on vessels shall be consigned to the collector of customs at the port of exportation, or port of lading for supplies on vessels, except that when the shipment is for export to a contiguous foreign territory it shall be consigned to the foreign consignee at destination in care of the collector of customs or deputy collector of customs at the port of export.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.242 Shipment for use on aircraft.

(a) *Distilled spirits and wine.* All distilled spirits and wines intended for use on aircraft shall be consigned to the airline at the airport from which the aircraft will depart in international travel, in care of the collector of customs. On receipt of the distilled spirits or wines they shall be stored at the airport under customs custody until laden on aircraft.

(b) *Beer.* Beer intended for use on aircraft shall be consigned to the collector of customs at the port of lading.

(48 Stat. 999, as amended, 72 Stat. 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5214, 5362)

§ 252.243 Shipment to armed services.

On removal of distilled spirits, wines, or beer for export to the armed services of the United States, the shipment shall be consigned to the commanding officer or supply officer at the supply base or other place of delivery.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.244 Shipment to manufacturing bonded warehouse.

Distilled spirits and wines withdrawn for shipment to a manufacturing bonded warehouse shall be consigned to the proprietor of such warehouse in care of the customs officer in charge of the warehouse.

(72 Stat. 1362, 1380, 1393; 26 U.S.C. 5214, 5362, 5522)

§ 252.245 Shipment to foreign-trade zone.

Where distilled spirits (including specially denatured spirits), wines, or beer, are transferred to a foreign-trade zone for exportation or for storage pending exportation, the shipment shall be consigned to the Zone Operator in care of the customs officer in charge of the zone.

(48 Stat. 999, as amended, 72 Stat. 1362, 1380; 19 U.S.C. 81c, 26 U.S.C. 5214, 5362)

§ 252.246 Delivery for shipment.

The proprietor or exporter may deliver the shipment directly to the consignees designated in §§ 252.241 through 252.245, or he may deliver it to a carrier for transportation and delivery to such consignees, or, when the exportation is to a contiguous foreign country, to the foreign consignee. Where the shipment is delivered to a carrier for transportation and delivery to such consignee, the proprietor or exporter shall procure a copy of the bill of lading covering such transportation.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.247 Change in consignee.

Where a change of consignee is desired after the liquors (including specially denatured spirits) have been removed from the shipping premises, the exporter shall notify the appropriate officer to whom the shipment is required by §§ 252.241–252.245 to be consigned or in whose care it is required to be shipped, and forward a copy of such notification to the appropriate assistant regional commissioner. Such notice shall identify the withdrawal or claim form, as the case may be, covering the shipment.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

BILLS OF LADING

§ 252.250 Bills of lading required.

A copy of the export bill of lading covering transportation from the port of export to the foreign destination, or a copy of the through bill of lading to the foreign destination, if so shipped, covering the acceptance of the shipment by a carrier for such transportation, shall be obtained by the exporter and filed with the assistant regional commissioner. Where the shipment consists of distilled spirits or wines to be deposited in a foreign-trade zone with benefit of drawback, and the principal has filed bond, Form 2738, the exporter shall obtain a copy of the transportation bill of lading covering the shipment and file it with the assistant regional commissioner: *Provided,* That such transportation bill of lading will not be required when delivery is made directly to the foreign-trade zone by the shipper. Bills of lading shall be signed by the carrier or by an agent of the carrier and shall contain the following minimum information:

(a) As to spirits, specially denatured spirits, and wines:

(1) The name of the exporter (if different from the shipper),

(2) The name and address of the consignee (foreign consignee in case of export or through bill of lading),

(3) The number of packages or cases,

(4) The serial numbers of the packages or cases, and

(5) The total quantity in wine gallons.

(b) As to beer:

(1) The name of the shipper,

(2) The name and address of the consignee (foreign consignee in case of export or through bill of lading), and

(3) The number and size of containers.

Where a copy of an export bill of lading or a copy of the through bill of lading is required and is not obtainable, the exporter or his agent may procure a certificate given by an agent of such carrier, as prescribed in § 252.253, and transmit such certificate to the assistant regional commissioner.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.251 Railway express receipts.

Where the exportation is to a contiguous foreign country and the shipment is by railway express, a receipt issued by the railway express agency may be accepted in lieu of an export bill of lading if the receipt furnishes all of the information required in an export bill of lading.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.252 Air express or freight bills of lading.

Where the exportation is made by air express or air freight, a bill of lading issued by the conveying airline is considered for the purpose of this part to be an export bill of lading if it otherwise conforms to the requirements of § 252.250.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.253 Certificate by export carrier.

A certificate, executed under the penalties of perjury, by an agent or representative of the export carrier, showing actual exportation of the liquors (including specially denatured spirits) may be furnished by an exporter as evidence of exportation. The certificate shall contain a description of the shipment, including the serial number of the withdrawal form, or the claim and entry form, as the case may be, the name of the exporter, the name of the consignee, the date received, the place where received by such carrier, and the name of the carrier from which received.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

Subpart N—Proceedings at Ports of Export

§ 252.261 Notice to collector of customs.

On arrival at the port of exportation, of distilled spirits (including specially denatured spirits), wines, or beer, withdrawn or shipped for exportation or for use on vessels or aircraft, the exporter or his agent shall immediately notify the collector of the port. At the same time, or prior thereto, the exporter or his agent shall file with the collector two copies of the application, claim, or notice, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, covering the shipment: *Provided,* That where the shipment is for direct exportation, such forms shall be filed at least six hours prior to lading.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335, 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.262 Delay in lading at port.

If, on arrival of a shipment withdrawn for export without payment of tax or free of tax, the exporting vessel is not prepared to receive the shipment, the collector of customs may permit such shipment to remain in possession of a carrier for a period not exceeding 30 days. Storage elsewhere for a like cause, and not exceeding the same period, may be approved by the collector of customs. In the event of further delay, the facts shall be reported to the assistant regional commissioner of the region from which the shipment was made, who shall issue appropriate instructions concerning the disposition of the shipment.

(72 Stat. 1334, 1362, 1380; 26 U.S.C. 5053, 5214, 5362)

§ 252.263 Duties of customs officer to be performed by an internal revenue officer.

Where authorized by the collector of customs at the interior port of entry in the case of paragraph (a) of this section, or at the port in which is located the manufacturing bonded warehouse in the case of paragraph (b) of this section, the internal revenue officer at a distilled spirits plant shall perform the duties required, by this subpart, to be performed by a customs officer, in the following instances only:

(a) Where distilled spirits withdrawn without payment of tax, or where distilled spirits bottled or packaged for export with benefit of drawback, are laden at an interior port for exportation through another port; and

(b) Where distilled spirits withdrawn without payment of tax are to be transferred for deposit in a manufacturing bonded warehouse which is contiguous to the distilled spirits plant.

(72 Stat. 1336, 1362, 1380; 26 U.S.C. 5062, 5214, 5362)

§ 252.264 Lading for exportation.

On receipt of the notification required in § 252.261, the collector of customs shall deliver both copies of the application, claim, or notice, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, covering the shipment, together with any forms which may be attached thereto, to a customs officer for inspection and supervision of lading. Such shipment shall be subject to the same requirements for inspection and supervision of lading at the port of exportation as may be required by Customs Regulations (19 CFR Ch. I) in the case of similar shipments of imported merchandise to be exported in customs bond. When an inspection of the shipment is made before it is laden on board the exporting carrier and such inspection discloses any discrepancy, the customs officer shall make note of the nature and extent of the discrepancy on each copy of the application, claim, or notice, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, and where the discrepancy involves one or more packages of distilled spirits, he shall make a gauge of each such package on Form 696.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.265 Evidence of fraud.

If the customs inspection discloses evidence of fraud, the customs officer shall detain the merchandise and notify the collector of customs who shall report the facts forthwith to the assistant regional commissioner within whose region the port of export is located. The assistant regional commissioner shall make investigation and take such action as the facts may warrant. Where the detained merchandise has been withdrawn for transfer and deposit in a manufacturing bonded warehouse, the merchandise shall be deemed not to have been deposited in said warehouse, and the designated officer shall hold in abeyance the processing of Form 206 until advised by the collector of customs that the detained merchandise may be entered for deposit. Where the detained merchandise has been withdrawn or entered for deposit in a foreign-trade zone, it shall be deemed to not have been deposited in the zone and the customs officer shall hold in abeyance the processing of the application, notice, or claim, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, and Zone Form D, until advised by the collector of customs that the detained merchandise may be entered for deposit.

(48 Stat. 999, as amended, 72 Stat. 1334, 1335, 1336, 1362, 1380, 1393; 19 U.S.C. 81c, 26 U.S.C. 5053, 5055, 5062, 5214, 5362, 5522)

§ 252.266 Release of detained merchandise.

When any merchandise has been detained under the provisions of § 252.265, the collector of customs shall not release such merchandise until he is advised so to do by the assistant regional commissioner.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.267 Exportation from interior port.

Where a shipment made under this part is to be exported to a contiguous foreign country through a frontier port, and it is desired to avoid the delay of customs inspection at such port, the shipment may be entered for exportation at an interior customs port. The inspection and supervision of lading, and the affixing of customs seals, shall be done by a customs officer in accordance with the provisions of Customs Regulations (19 CFR Ch. I): *Provided*, That where, under the provisions of § 252.263, an internal revenue officer has been authorized to perform such duties, the internal revenue officer shall perform the duties of the customs officer. On completion of the lading, the designated officer shall affix the seals, execute the certificate of lading on both copies of the application, notice, or claim, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, and forward them, with attachments (if any), to the collector of customs at the interior port of entry. The collector shall forward both copies of the form, with attachments (if any), to the customs officer at the frontier port. When the customs officer at the frontier port is satisfied that the shipment as described on the appropriate form has been exported, he shall execute his certificate on both copies of the form and return them with attachments (if any), to the collector of customs at the interior port of entry.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.268 Receipt for liquors for use on vessels or aircraft.

Where liquors are withdrawn or removed for use on vessels or aircraft, the exporter shall procure and forward to the asistant regional commissioner a receipt executed under the penalties of perjury by the master or other authorized officer of the vessel, steamship company, or airline, as the case may be. The receipt shall give the number of containers, the serial numbers of the containers (if any), and the quantity received, and shall show that the liquors are in customs custody and have been or will be laden on board the vessel or aircraft, that they will be lawfully used on board the vessel or aircraft, and that no portion of the shipment has been or will be unladen in the United States or any of its territories or possessions. A receipt is not required, in the case of any shipment for use on vessels, when the liquors are laden on vessels of war, or, in cases other than supplies for vessels employed in the fisheries, where the amount of the tax on the liquors does not exceed $200. In the case of supplies for vessels employed in the fisheries, compliance with the provisions of § 252.22 is also required.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335, 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

§ 252.269 Certification by collector of customs.

(a) *Exportation.* When the collector of customs is satisfied that merchandise described on the application, notice, or claim, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, has been laden and cleared for export, he shall execute his certificate of lading and clearance on both copies of the form.

(b) *Distilled spirits and wines as supplies on vessels and aircraft.* When the collector of customs is satisfied that the distilled spirits and wines described on Form 206, 1582, or 1582–A, as the case may be, have been duly laden for use on vessels and aircraft, and that proper accounting for such spirits or wines has been submitted to him as required by this part, he shall execute his certificate of lading for use on both copies of the form.

(c) *Disposition of forms.* After executing his certificate, the collector of customs shall forward the original of Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, with attachments (if any), to the assistant regional commissioner designated on the form, and retain the remaining copy, with any attached forms, for his files.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335, 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

RECEIPT BY ARMED SERVICES

§ 252.275 Receipt by armed services.

When liquors which have been withdrawn or removed for export to the armed services of the United States are received at the supply base or other designated place of delivery, the officer to whom consigned, or other authorized supply officer, at the supply base or other place of delivery shall enter the quantity of liquors received on both copies of the application, notice, or claim, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be. After signing the form, he shall forward the original with attachments, if any, to the assistant regional commissioner designated on the form, and retain the other copy for his records.

(72 Stat. 1334, 1335, 1336, 1362, 1380; 26 U.S.C. 5053, 5055, 5062, 5214, 5362)

LADING FOR USE ON AIRCRAFT

§ 252.280 Distilled spirits and wines.

When an airline desires to withdraw distilled spirits or wines from its stock being held at the airport under customs custody, for use on a particular aircraft, a requisition in triplicate shall be prepared for presentation to the customs officer. The requisition shall show the flight number, the registry number of the aircraft on which the distilled spirits or wines are to be laden, the country for which the aircraft is to be cleared, the date of departure of the aircraft, and the brand, kind, and quantity of distilled spirits or wines. Where the distilled spirits or wines are contained in kits which have been previously prepared while under customs custody, the kit number shall also be shown on the requisition. Where the kits are not prepared and the distilled spirits or wines are withdrawn for direct lading on aircraft, the requisition shall be serially numbered in lieu of the insertion of the kit number. When the distilled spirits or wines are withdrawn and laden aboard the aircraft, the lading shall be verified by the customs officer by an appropriate stamp or notation on the requisition. One copy of the requisition shall be retained by the customs officer who certifies to the lading for attachment to the outgoing manifest. The other two copies shall be delivered to the airline which shall retain both copies until the return of the flight. In case any of the distilled spirits or wines are removed from the aircraft on its return, they shall be returned to customs custody, appropriate notation made on both copies of the requisition retained by the airline and one copy shall be delivered to the customs officer for attachment to the incoming manifest. The remaining copy shall be retained by the airline.

(46 Stat. 690, as amended, 72 Stat. 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5062, 5214, 5362)

§ 252.281 Certificate of use for distilled spirits and wines.

When all of the distilled spirits or wines represented by a single application, notice, or claim, Form 206, 1582, or 1582–A, as the case may be, have been withdrawn from customs custody and laden and used on aircraft, the airline shall prepare a certificate of use on which are itemized all the requisitions pertaining to such distilled spirits or wines. The certificate shall be executed under the penalties of perjury by an officer of the airline and shall show the name of the exporter, the entry number, the brand and kind of distilled spirits or wines, and the number of bottles to be accounted for; and, as to each requisition, the requisition (or kit) number, the date laden, the registry number of the aircraft, the country for which the aircraft was cleared, and the number of bottles used. When completed, the certificate shall be presented to the customs officer at the airport who shall than execute his certificate on both copies of the appropriate application, notice, or claim, Form 206, 1582, or 1582–A, as the case may be, noting thereon any exception, such as shortages or breakage. The customs officer shall then attach the certificate of use to the copy of the appropriate form and forward both copies of the form to the collector of customs.

(46 Stat. 690, as amended, 72 Stat. 1336, 1362, 1380; 19 U.S.C. 1309, 26 U.S.C. 5062, 5214, 5362)

§ 252.282 Beer.

When beer has been laden on board the aircraft for use as supplies, the customs officer shall execute his certificate on both copies of the Form 1582–B or Form 1689, as the case may be, forward the original to the assistant regional commissioner designated on the form, and retain the copy for his files.

(46 Stat. 690, as amended, 72 Stat. 1334, 1335; 19 U.S.C. 1309, 26 U.S.C. 5053, 5055)

RECEIPT IN MANUFACTURING BONDED WAREHOUSE

§ 252.285 Receipt in manufacturing bonded warehouse.

On receipt of the distilled spirits or wines and the related Form 206 (and Form 2630, if any), the customs officer in charge of the manufacturing bonded warehouse shall make such inspection as is necessary to establish to his satisfaction that the shipment corresponds with the description thereof on Form 206 (and Form 2630, if any), and shall make a report of his gauge on Form 696, in duplicate: *Provided*, That where, under the provisions of § 252.263, an internal revenue officer has been authorized to perform the duties of the customs officer, the internal revenue officer shall perform such duties. Where his inspection and gauge discloses any discrepancy, the designated officer shall make note of such discrepancy on each copy of Form 206. Where the officer is satisfied that the shipment corresponds with the description on Form 206 (and Form 2630, if any), he shall execute his certificate of deposit on both copies of Form 206, and forward the original of Forms 206 and 696, and a copy of Form 2630 (if any), to the assistant regional commissioner. He shall retain the remaining copies for his files.

(72 Stat. 1362, 1380, 1393; 26 U.S.C. 5214, 5362, 5522)

RECEIPT IN FOREIGN-TRADE ZONE

§ 252.290 Receipt in foreign-trade zone.

On receipt at the zone, the shipment shall be inspected by the customs officer in charge of the zone who shall determine if the shipment agrees with the description thereof on the application, notice, or claim, Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be. Where, with respect to distilled spirits or wines, the customs officer deems it necessary to make a regauge of such spirits or wines, he shall make such regauge on Form 696, in duplicate. The customs officer shall note on both copies of the Form 206, 1582, 1582–A, 1582–B, or 1689, as the case may be, any deficiency in quantity or discrepancy between the merchandise inspected or gauged and that described in the form. Where the inspection or gauge discloses no loss, or where a loss is disclosed by such inspection or gauge and there is no evidence to indicate fraud, the officer shall execute his certificate on both copies of the form covering the deposit, and forward to the assistant regional commissioner the following:

(a) Original of the deposit form;
(b) Original of Form 696, if any; and
(c) Copy of Form 2630, if any.

The remaining copy of the deposit form, and of any other form, shall be retained by the customs officer for his files.

(48 Stat. 999, as amended, 72 Stat. 1336, 1362, 1380; 19 U.S.C. 81c, 26 U.S.C. 5062, 5214, 5362)

Subpart O—Losses

DISTILLED SPIRITS

§ 252.301 Loss of distilled spirits in transit.

The tax on distilled spirits withdrawn without payment of tax under this part and which are lost during transportation from the bonded premises of the distilled spirits plant from which withdrawn to (a) the port of export, (b) the manufacturing bonded warehouse, (c) the vessel or aircraft, or (d) the foreign-trade zone, as the case may be, may be remitted if evidence satisfactory to the assistant regional commissioner establishes that such distilled spirits have not been unlawfully diverted, or lost by theft with connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier or the employees or agents of any of them: *Provided*, That such remission in the case of loss of distilled spirits by theft shall only be allowed to the extent that the claimant is not indemnified against or recompensed in respect of the tax for such loss.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 252.302 Notice to exporter.

If, on examination of the Form 206 (and attached gauge reports, if any) received from the officer required to certify the same under the provisions of Subpart N of this part, the assistant regional commissioner is of the opinion that the distilled spirits reported lost had been unlawfully diverted, or had been lost by theft, he will advise the exporter by letter.

(a) Of the identity of the containers;
(b) Of the amount of the loss;
(c) Of the circumstances indicating diversion or theft;
(d) That allowance of the loss will be subject to filing (1) proof that such loss is allowable under the provisions of section 5008 (a) and (f), I.R.C., and (2) claim for remission of the tax on the spirits so lost; and
(e) That action in respect of the loss will be withheld for a period of not more than 30 days to afford an opportunity to file such proof and claim.

In any case in which distilled spirits are lost during transportation, as described in § 252.301, whether by theft or otherwise, the assistant regional commissioner may require the exporter to file a claim for relief in accordance with § 252.303. When circumstances may warrant, extensions of additional time for submission of the proof and claim may be granted by the assistant regional commissioner. Where such proof and claim are not filed within the 30 day period, or such extensions as the assistant regional commissioner may grant, the tax on the distilled spirits diverted or lost will be assessed, or liability asserted against the bond covering the shipment, as the case may be.

(72 Stat. 1323; 26 U.S.C. 5008)

§ 252.303 Filing of claims.

Claims, for remission of tax on the distilled spirits under § 252.301, shall be filed on Form 2635, in duplicate, with the assistant regional commissioner, and shall set forth the following:
(a) Name, address, and capacity of the claimant;
(b) Identification (including serial numbers, if any) and location of the container or containers from which the spirits were lost;
(c) Quantity of spirits lost from each container, and the total quantity of spirits covered by the claim;
(d) Total amount of tax for which the claim is filed;
(e) The date, penal sum, and form number of the bond under which withdrawal and shipment were made;
(f) Name, number, and address of the distilled spirits plant from which withdrawn without payment of tax;
(g) Date of the loss (or, if not known, date of discovery), the cause thereof, and all the facts relative thereto;
(h) Name of the carrier;
(i) If lost by theft, facts establishing that the loss did not occur as the result of any connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them;
(j) In the case of a loss by theft, whether the claimant is indemnified or recompensed in respect of the tax on the spirits lost, and, if so, the amount and nature of such indemnity or recompense and the actual value of the spirits, less the tax.

The claim shall be executed by the exporter or his autorized agent under the penalties of perjury, and shall be supported (whenever possible) by affidavits of persons having personal knowledge of the loss. The assistant regional commissioner may require such further evidence as he deems necessary.

(68A Stat. 749, 72 Stat. 1323; 26 U.S.C. 6065, 5008)

§ 252.304 Action on claim.

The assistant regional commissioner will allow or disallow claims filed under § 252.303 in accordance with existing law and regulations. If the assistant regional commissioner finds that there has been a diversion or theft of the distilled spirits as the result of any connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them, the tax on the distilled spirits diverted or lost by theft will be assessed, or liability asserted against the bond covering the shipment, as the case may be.

(68A Stat. 867, 72 Stat. 1323; 26 U.S.C. 7302, 5008)

SPECIALLY DENATURED SPIRITS

§ 252.310 Loss of specially denatured spirits in transit.

Losses of specially denatured spirits withdrawn free of tax under this part during transportation from the bonded premises of the distilled spirits plant from which withdrawn to (a) the port of export, or (b) the foreign-trade zone, as the case may be, may be allowed if evidence satisfactory to the assistant regional commissioner establishes that such specially denatured spirits have not been unlawfully diverted, or lost by theft as the result of any connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier, or the employees or agents of any of them. The giving of notice to the exporter, filing claims for allowance of loss, and action on the claims shall be, insofar as applicable, in accordance with the procedure prescribed in §§ 252.302 through 252.304.

WINE

§ 252.315 Loss of wine in transit.

The tax on wines withdrawn without payment of tax under this part and which are lost during transportation from the bonded wine cellar from which withdrawn to (a) the port of export, (b) the vessel or aircraft, (c) the foreign-trade zone, or (d) the manufacturing bonded warehouse, as the case may be, may be remitted if evidence satisfactory to the assistant regional commissioner establishes that such wines have not been unlawfully diverted, or lost by theft with connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier or the employees or agents of any of them: *Provided*, That the remission of tax on wine withdrawn without payment of tax under this part and which is lost while in transit may be allowed only to the extent that the claimant is not indemnified or recompensed for such tax.

(72 Stat. 1381, 1382; 26 U.S.C. 5370, 5371)

§ 252.316 Notice to exporter.

If, on examination of the Form 206 received from the officer required to certify the same under the provisions of Subpart N, the assistant regional commissioner is of the opinion that wine reported lost had been unlawfully diverted, or had been lost by theft, he will advise the exporter by letter:
(a) Of the identity of the containers;
(b) Of the amount of the loss;
(c) Of the circumstances indicating diversion or theft;
(d) That allowance of the loss will be subject to filing (1) proof that such loss is allowable under the provisions of section 5370, I.R.C., and (2) claim for remission of the tax on the wine so lost; and
(e) That action in respect of the loss will be withheld for a period of not more than 30 days to afford an opportunity to file such proof and claim.

In any case in which wines are lost during transportation, as described in § 252.315, whether by theft or otherwise, the assistant regional commissioner may require the exporter to file a claim for relief in accordance with § 252.317. Where circumstances may warrant, extensions of additional time for submission of the proof and claim may be granted by the assistant regional commissioner. Where such proof and claim are not filed within the 30-day period, or such extensions as the assistant regional commissioner may grant, the tax on the wine diverted or lost will be assessed, or liability asserted against the bond covering the shipment, as the case may be.

(72 Stat. 1381; 26 U.S.C. 5370)

§ 252.317 Filing of claims.

Claims, for remission of tax on the wine under § 252.315, shall be filed on Form 2635, in duplicate, with the assistant regional commissioner, and shall set forth the following:
(a) The name, address, and capacity of the claimant;
(b) The name, registry number, and location of the bonded wine cellar from which the wine was withdrawn;
(c) The date, penal sum, and form number of the bond under which withdrawal and shipment was made;
(d) Identification (including serial numbers, if any) and location of the container or containers from which the wine was lost;
(e) The quantity of wine lost from each container, and the total quantity of wine covered by the claim;
(f) The total amount of tax for which the claim is filed;
(g) The date of the loss (or, if not known, date of discovery), the cause thereof, and all the facts relative thereto;
(h) Name of the carrier;
(i) If lost by theft, the facts establishing that the loss did not occur as the result of any connivance, collusion, fraud, or negligence on the part of the exporter, owner, consignor, consignee, bailee, or carrier, or the agents or employees of any of them; and

(j) Whether the claimant is indemnified or recompensed in respect of the tax on the wine lost, and, if so, the amount and nature of such indemnity or recompense and the actual value of the wine, less the tax.

The claim shall be signed by the exporter or his authorized agent under the penalties of perjury, and shall be supported (whenever possible) by affidavits of persons having personal knowledge of the loss. The assistant regional commissioner may require such further evidence as he deems necessary.

(68A Stat. 749, 72 Stat. 1381, 1382; 26 U.S.C. 6065, 5370, 5371)

§ 252.318 Action on claim.

Action on claims filed under § 252.317 shall be, insofar as applicable, in accordance with the procedure prescribed in § 252.304.

(72 Stat. 1381; 26 U.S.C. 5370)

BEER

§ 252.320 Loss of beer in transit.

When, on receipt by the assistant regional commissioner of Form 1689 from the officer required to certify it under the provisions of Subpart N, it is disclosed that there has been a loss of beer after removal from the brewery without payment of tax and while in transit to (a) the port of export, (b) the vessel or aircraft, or (c) the foreign-trade zone, as the case may be, and the report of the certifying officer shows that such loss was a normal one caused by casualty, leakage, or spillage, the assistant regional commissioner will allow the loss. Where it is disclosed that the loss is large or unusual, the assistant regional commissioner shall conduct an investigation of the loss. Where the investigation discloses that the loss in transit has occurred by reason of casualty, leakage, or spillage, credit for the loss will be allowed. Where the investigation discloses evidence indicating that the loss resulted from theft or from fraud, the assistant regional commissioner will afford the brewer opportunity to submit a written explanation with respect to the causes of such loss before taking further action.

(72 Stat. 1333, 1334, 1335; 26 U.S.C. 5051, 5053, 5056)

§ 252.321 Tax assessed on loss not accounted for.

Where a loss of beer in transit, as described in § 252,320, has not been explained to the satisfaction of the assistant regional commissioner, an assessment shall be made against the brewer in a sufficient amount to cover the tax on the quantity of beer not satisfactorily accounted for.

(72 Stat. 1333, 1334; 26 U.S.C. 5051, 5053)

Subpart P—Action on Claims

§ 252.331 Claims supported by bond, Form 2738.

On receipt from the proprietor or exporter of a claim for drawback of tax on distilled spirits or wines on which the tax has been determined, and of the evidence of exportation required by § 252.40, or of lading for use on vessels or aircraft required by § 252.41, or of deposit in a foreign-trade zone required by § 252.42, as the case may be, the assistant regional commissioner shall, if a good and sufficient bond has been filed as provided in § 252.45, and the notice of removal has been properly completed, allow the claim in accordance with the rate of drawback established in respect of the particular spirts or wines on which claim is based and charge the amount allowed against the bond. On receipt of the original of the claim properly executed by the appropriate customs official or armed services officer, as required by this part, and, in the case of claims on Form 1582–A, the certificate of tax determination, Form 2605, the assistant regional commissioner shall give appropriate credit to the bond.

(46 Stat. 690, 691, as amended, 48 Stat. 999, as amended, 72 Stat. 1336; 19 U.S.C. 1309, 1311, 81c, 26 U.S.C. 5062)

§ 252.332 Claim against bond.

Where any claim supported by a bond has been allowed and charged against the bond under the provisions of § 252.331, and the original of the claim properly executed by the appropriate customs official or armed services officer as required by this part, is not received by the assistant regional commissioner within three months of the date the claim was allowed, or where the distilled spirits or wines are not otherwise accounted for in accordance with this part, the assistant regional commissioner shall advise the claimant of the facts, and notify him that unless the original of the claim, properly executed as required by this part, is received by the assistant regional commissioner within 30 days of the date of such notice, a written demand will be made upon the principal and the surety for repayment to the United States of the full amount of such drawback, plus interest at the rate of 6 percent from the time the drawback is paid: *Provided*, That the assistant regional commissioner may, where in his opinion the circumstances warrant it, grant the claimant such additional extension of time beyond 30 days as may be necessary to accomplish the required filing.

(72 Stat. 1336; 26 U.S.C. 5062)

§ 252.333 Where no bond is filed.

Where a claim for drawback of tax on distilled spirits or wines on Form 1582, Form 1582–A, or Form 1629, is not supported by a bond on Form 2738, and in all cases where claim for drawback of tax on beer is made on Form 1582–B, the assistant regional commissioner shall, on receipt by him of the original of the claim properly executed by the appropriate customs official or armed services officer, as required by this part, examine the claim to determine that it has been properly completed. He shall then, on receipt of the evidence of exportation required by § 252.40, or of lading for use on vessels or aircraft required by § 252.41, or of deposit in a foreign-trade zone required by § 252.42, as the case may be, and, in the case of claims on Form 1582–A, the certificate of tax determination, Form 2605, allow the claim in the amount of the tax paid on the beer or the tax paid or determined on the distilled spirits or wines on which the claim is based and which were exported, laden as supplies on vessels or aircraft, or deposited in a foreign-trade zone, as the case may be.

(46 Stat. 690, 691, as amended, 48 Stat. 999, as amended, 72 Stat. 1327, 1335, 1336; 19 U.S.C. 1309, 1311, 81c, 26 U.S.C. 5009, 5055, 5062)

§ 252.334 Credit allowance.

Where the claimant has indicated that he desires the amount of drawback allowed to be credited against internal revenue taxes determined by him but not yet paid, the assistant regional commissioner shall prepare Form 2639, in triplicate, and forward the original to the claimant. Where the credit relates to tax determined distilled spirits, procedure for taking the credit shall be in accordance with the procedures set forth in Part 201 of this chapter. Where the credit relates to tax-determined wines, procedure for taking the credit shall be in accordance with the procedures set forth in Part 240 of this chapter. No credit may be given for drawback of the tax on beer nor may one class of tax be credited to another.

(72 Stat. 1327, 1336; 26 U.S.C. 5009, 5062)

§ 252.335 Disallowance of claim.

If a claim for drawback of tax is not allowed in full, the assistant regional commissioner shall notify the claimant in writing of the reasons for any disallowance.

(46 Stat. 690, as amended, 48 Stat. 999, as amended, 72 Stat. 1327, 1335, 1336; 19 U.S.C. 1309, 81c, 26 U.S.C. 5009, 5055, 5062)

[F.R. Doc. 60–3134; Filed, Apr. 6, 1960; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 951]

TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

Notice of Proposed Rule Making

Notice is hereby given that the Department is considering the approval of the revision, hereinafter set forth, of the rules and regulations that are currently in effect (7 CFR Part 951.100 et seq.; Subpart—Rules and Regulations) of the Industry Committee, established under the marketing agreement, as amended, and Order No. 51, as amended (7 CFR Part 951; 24 F.R. 1238), regulating the handling of Tokay grapes grown in San Joaquin County, California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The revision of the said rules and regulations has been proposed by the Industry Committee, established under said amended marketing agreement and order as the agency to administer the terms and provisions thereof.

The proposed revision is as follows:

DEFINITIONS

§ 951.100 Order.

"Order" means Order No. 51, as amended (§§ 951.1 to 951.94; 24 F.R. 1238), regulating the handling of Tokay grapes grown in San Joaquin County in California.

§ 951.101 Marketing agreement.

"Marketing Agreement" means Marketing Agreement No. 93, as amended.

§ 951.102 Other terms.

Other terms used in this subpart shall have the same meaning as when used in the marketing agreement and order.

§ 951.103 Standard package.

"Standard package" means the standard grape lug No. 37G specified in section 828.53 of the Agricultural Code of California.

GENERAL

§ 951.118 Communications.

Unless otherwise prescribed in this subpart or in the marketing agreement and order, or required by the Industry Committee, all reports, applications, submittals, requests, and communications in connection with the marketing agreement and order shall be addressed to Industry Committee, P.O. Box 877, Lodi, California.

NOTICE OF RECOMMENDATIONS AND REGULATIONS; EXEMPTION CERTIFICATES

§ 951.120 Notice of recommendation.

Notice of each recommendation made by the Industry Committee to the Secretary, with respect to regulation of the shipment of grapes pursuant to § 951.50, § 951.55, or § 951.60, or the modification, suspension, or termination of any such regulation pursuant to § 951.60 or § 951.73, shall be given by the Industry Committee by having a general statement of the contents of the recommendation published once in a newspaper of general circulation in the City of Lodi, California.

§ 951.121 Notice of regulation.

Notice of each regulation of the shipment of grapes, and of each modification, suspension, or termination thereof, shall be given by the Industry Committee by having a general statement of the contents of the regulation, modification, suspension, or termination, as the case may be mailed to each handler whose name appears on the records of the Industry Committee for the then current year, and by having such statement published once as a news item in a newspaper of general circulation in the City of Lodi, California: *Provided,* That legal notice of each regulation and any modification, suspension, or termination shall be deemed to be given by publication thereof in the FEDERAL REGISTER as required by law.

§ 951.122 Exemption certificates.

Exemption certificates shall be issued by the Industry Committee pursuant to the following:

(a) Applications for Exemption certificates shall be submitted to the Industry Committee on forms prescribed and furnished by the committee and shall contain the following information:

(1) Name and address of applicant.

(2) Location of vineyard from which grapes are to be shipped pursuant to the exemption certificate.

(3) The name, if any, of the vineyard, the number of acres and age of vines of the grapes with respect to which exemption is requested.

(4) Total quantity of Tokay grapes produced in the aforesaid vineyard for each of the preceding three seasons, the quantity shipped in fresh form for each of such seasons, and the quantity shipped under exemption certificates for each of such seasons.

(5) Quantity of grapes applicant has shipped in fresh fruit channels and disposed of otherwise from the beginning of the current season to the date of the application.

(6) The conditions beyond the control of the applicant which prevent the grapes for which exemption is requested from meeting the requirements of the grade and size regulation then in effect.

(7) Name of shipper if different from applicant.

(8) Such additional information as the Industry Committee may require in order to determine whether the applicant is entitled to an exemption certificate.

(b) It shall be the sole responsibility of the applicant to furnish requisite proof to the industry Committee of the conditions beyond his control affecting his grapes. Conditions beyond the control of the grower may include adverse climatic conditions, excesses or shortages of water not caused by faulty irrigation practices, or other conditions not resulting from the failure of the grower to follow proper cultural and harvesting practices.

(c) The Industry Committee shall promptly investigate all statements contained in the application and thereafter shall determine whether such application shall be approved. Approval shall be evidenced by the issuance to the applicant of an exemption certificate. In the case of disapproval, a written notice of such disapproval and the reason therefor shall be forwarded to the applicant.

(d) Each exemption certificate issued shall be on a form prescribed by the Industry Committee and shall be signed by the Secretary or Assistant Secretary of the committee. It shall specify the defects for which exemption is granted and the period during which the exemption certificate shall be effective. Each exemption certificate shall be effective only for the defects specified therein. It shall be issued in quadruplicate; and one copy shall be delivered to the grower, one copy shall be delivered to the shipper designated by the grower to receive a copy, one copy shall be delivered to the field representative of the Industry Committee, and one copy shall be retained by the Industry Committee.

(e) The committee may, at any time, cancel or modify an exemption certificate if it is determined that the need for such exemption no longer exists or that a different quantity of the restricted or prohibited grades and sizes than that provided by such exemption certificate will permit the applicant to ship the requisite percentage of his crop.

(f) Each shipper handling Tokay grapes pursuant to an exemption certificate shall keep an accurate record of all shipments, made pursuant to the certificate, in the appropriate blank spaces provided for therein. Such record shall include with respect to each shipment, the date, the number of the railroad car or license number of the truck in which such shipment is made, the name of the shipper, the shipping point, the consignment number, and the quantity of each size and grade of Tokay grapes in such shipment. When the quantity of grapes authorized by the exemption certificate has been shipped or shipments pursuant to an exemption certificate have been completed, the exemption certificate containing the record of shipments shall be submitted promptly to the Industry Committee or its duly authorized representative.

VOLUME REGULATION

§ 951.130 Application for allotment.

Each person who proposes to ship grapes as the first handler thereof during any period in which grapes may be regulated pursuant to § 951.61 shall submit to the Industry Committee, on forms prescribed and furnished by such committee, a written application for allotment. Such application shall be submitted on such dates as the Industry Committee may from time to time designate, shall contain the information prescribed in § 951.63 (a), and, in addition, shall contain a certification to the United States Department of Agriculture and the Industry Committee as to the truthfulness of the information contained therein.

§ 951.131 Adjustments to correct errors, omissions or inaccuracies.

Whenever the Industry Committee determines that an error, omission, or inaccuracy has resulted in a handler receiving more or less allotment than that to which he was entitled, the allotments of such handler shall thereafter be adjusted during a maximum period of four consecutive allotment periods (or the balance of the then current season if less than four allotment periods): *Provided,* That, insofar as possible, the amount of adjustment for any allotment period shall not exceed one-half of the total allotment issued to such handler for such period, and, where necessary to comply with this limitation, the maximum period may be extended. Such adjustments shall be made only during the season in which the errors, omissions, or inaccuracies occurred.

§ 951.132 Certificate of allotment.

Two days prior to each allotment period, Certificates of Allotment for such period shall be mailed to each handler entitled to an allotment. Not later than the end of the second day of such allotment period, a Certificate of Revised Allotment shall be mailed to handlers. Each Certificate of Allotment shall contain: (a) the date of issuance (b) the name and address of the handler to whom issued, (c) the allotment period to which applicable, (d) the total allot-

ment issued to such handler pursuant to § 951.62(a) and § 951.65. In addition to the foregoing information, each Certificate of Revised Allotment shall show adjustments by reasons of prior undershipments, overshipments, and repayment of loans.

§ 951.133 Transfers from one handler to another.

Any person gaining the right to ship grapes from a vineyard by reasons of a grower's transfer of his grapes to such person may submit an application to the Industry Committee on such form as it shall prescribe for an increase in his allotment percentage. Such application shall contain: (a) The date of application, (b) the name and address of the applicant, (c) the name and address of the grower, (d) the name and location of the vineyard involved, (e) the date such transfer became effective, (f) the record of shipments of Tokay grapes from such vineyard during the two previous seasons, and (g) a verification of the transfer signed by the person losing the right to ship such grapes or by the grower. In the event the verification is signed by the grower, the application must also contain a certification by such grower to the United States Department of Agriculture and to the Industry Committee that he had the right to make such transfer.

§ 951.134 Overshipment and undershipment of daily allotment.

* * * * *

(b) Whenever a handler has allotment available by reason of a prior undershipment of allotment, the portion of such undershipment which he may use shall not exceed 10 percent of the total allotment issued to him for the period in which the undershipment occurred, or the equivalent of 1105 standard packages of grapes, whichever is the greater.

SAFEGUARDS WITH RESPECT TO SHIPMENTS WITHIN THE PRODUCTION AREA AND SHIPMENTS BY TRUCK

§ 951.150 Shipments within area of production.

With respect to each shipment of grapes to a destination within the production area, each handler shall first obtain from the purchaser a certification, on such form as is prescribed by the Industry Committee, to the United States Department of Agriculture and the Industry Committee that such grapes are for delivery to a destination within the production area and will not be shipped from the production area. Such certificate shall state the date of shipment, the quantity of grapes included in the shipment, the truck license number or other identification of the carrier of the grapes, and the signature and address of the purchaser, or his agent. The certificate shall also be signed by the handler and shall be forwarded to the Industry Committee within 48 hours after the time of the shipment.

§ 951.151 Assignment of allotment certificates.

Assignment of allotment certificates shall be issued in triplicate by the handler on the form prescribed by the Industry Committee. The original shall be mailed to the Industry Committee at time of issuance; the duplicate shall accompany the shipment at all times until it arrives at destination; and the triplicate shall be retained by the handler issuing the certificate for at least two succeeding years.

§ 951.160 Reports.

Each handler of Tokay grapes shall furnish, or shall authorize any or all railroad, transportation, or cold storage agencies to furnish, daily to the Industry Committee, during such periods as shall be required by it, the following information:

(a) A report of all grapes packed by or for such handler. Such report shall show separately for each vineyard for which adjusted allotment has been issued, the name of the grower and the quantity of grapes packed.

(b) A report of all shipments, including the origin of the shipment, the date of billing, the destination, any diversion orders issued on such shipment, the name and address of any refrigerated storage warehouse within the State of California to which the shipment is consigned either in transit or otherwise, the car or truck license number, the number of standard packages of grapes or the billing weight thereof. Such report shall include all shipments from refrigerated storage warehouses within the State of California.

(c) The grade of all grapes shipped.

(d) In addition to all other information required to be supplied by said handler as set forth in this section, each handler who ships grapes for which an exemption certificate is required under the provision of § 951.51 shall furnish to the confidential employees of the Industry Committee complete daily information with respect to each such shipment as follows:

(1) The name of the grower for whom such grapes were shipped;

(2) The grade and size of such grapes; and

(3) The number of the exemption certificate under which such grapes were shipped.

SHIPMENTS NOT SUBJECT TO REGULATION

§ 951.170 Grapes not subject to regulation.

(a) *Grapes for charitable purposes.* Any person who ships Tokay grapes for consumption by charitable institutions or for distribution by relief agencies or for relief purposes shall first deliver to the Industry Committee or its designated agent evidence satisfactory to the committee or its designated agent that said grapes actually will be used for one or more of the aforesaid purposes.

(b) *Grapes for conversion into by-products, including wine and juice.* Each handler who ships grapes to any point outside the State of California, or to any point within the State of California in any container containing less than 200 lbs. of grapes, for commercial conversion into by-products, wine, or juice shall first obtain, and furnish to the Industry Committee, a certification to the United States Department of Agriculture and to the Industry Committee, executed by the purchaser of such grapes, that the grapes will be used for by-products, wine, or juice purposes.

(c) *Shipments by types or in minimum quantities.* Nothing contained in this subpart shall in any way restrict or limit (1) shipments of grapes to any one person during any calendar day in quantities of five standard packages or less, or the equivalent thereof, for purposes other than resale, and (2) shipments of grapes which are donated for trade promotion purposes and which are not to be sold.

§ 951.180 Nomination for position as seventh member of committee.

The six alternates nominated at grower meetings provided for in § 951.22 (a) are eligible to be nominated for the position of member at large.

§ 951.190 Election procedure for Shippers' Advisory Committee.

The Industry Committee shall conduct the election meeting of the Shippers' Advisory Committee. The election of members and alternate members of the Shippers' Advisory Committee shall proceed in the following order:

(1) Three members shall be elected by and from among, the five largest handlers, or employees, or representatives of such handlers.

(2) Three members shall be elected by all other handlers during the same period the five largest handlers are making their selections.

(3) The six elected members of the Shippers' Advisory Committee and the Industry Committee will elect the member at large.

(4) Three alternate members shall be elected by the five largest handlers.

(5) Three alternates shall be elected by the remaining handlers.

(6) The first six elected members of the Shippers' Advisory Committee and the Industry Committee will elect the alternate to the member at large.

§ 951.191 Determination of handler volume.

The basis for the quantity of grapes shipped by each respective handler during the preceding season pursuant to § 951.40 shall be the total number of lugs, or equivalent thereof, reported for the preceding season by such handlers on manifests to the Industry Committee and on which each shipper paid the assessment.

All persons who desire to submit written data, views, or arguments for consideration in connection with such proposed revision of the rules and regulations should do so by forwarding the same to the Director, Fruit and Vegetable Division, Agricultural Marketing Service, Room 2077, South Building, Washington 25, D.C., not later than the 10th day after publication of this notice in the FEDERAL REGISTER.

Dated: April 1, 1960.

S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60-3173; Filed, Apr. 6, 1960; 8:48 a.m.]

[7 CFR Part 993]

[Docket No. AO 201-A4]

DRIED PRUNES PRODUCED IN CALIFORNIA

Notice of Hearing With Respect to Amendment of Marketing Agreement and Order

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601-674), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at 9:30 a.m., P.s.t., on April 18, 1960, in Room 421, Appraisers Building, 630 Sansome Street, San Francisco, California, with respect to proposed further amendments to Marketing Agreement No. 110, as amended, and Order No. 93, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California. These proposed amendments have not received the approval of the Secretary of Agriculture.

The public hearing will be held for the purpose of receiving evidence with respect to the economic and marketing conditions relating to the proposals hereinafter set forth, and any appropriate modifications thereof.

The following have been proposed by the Prune Administrative Committee, the administrative agency established under the amended marketing agreement and order:

1. Add new § 993.3a to read as follows:

§ 993.3a Area.

"Area" means the State of California.

2. Amend § 993.4 to read as follows:

§ 993.4 Prunes.

"Prunes" means and includes all sundried or artificially dehydrated plums, of any type or variety, produced from plums grown in the area, except: (a) Sulfur-bleached prunes which are produced from yellow varieties of plums and are commonly known as silver prunes; and (b) plums which have not been dried or dehydrated to a point where they are capable of being stored prior to packaging, without material deterioration or spoilage, unless refrigeration or other artificial means of preservation are used, and so long as they are treated by a process which is in conformity with, or generally similar to, the processes for treatment of plums of that type which have been developed or recommended by the Food Technology Division, College of Agriculture, University of California, for the specialty pack known as "high moisture content prunes," but this exception shall not apply if and when such plums are dried to the point where they are capable of being stored, without material deterioration or spoilage, unrefrigerated or not otherwise artificially preserved.

3. Add new § 993.4a to read as follows:

§ 993.4a Non-French prunes.

"Non-French prunes" means prunes produced from and commonly known as the Imperial, Sugar, Robe de Sargent, Burton, Standard, Jefferson, Fellenberg, Italian, President, Giant, and Hungarian (Gross) varieties of plums.

4. Amend § 993.6 to read as follows:

§ 993.6 Processed prunes.

"Processed prunes" means prunes which have been cleaned, or treated with water or steam, by a handler.

5. Amend § 993.7 to read as follows:

§ 993.7 Standard prunes.

"Standard prunes" means any lot of natural condition prunes meeting the applicable grade and size standards prescribed pursuant to § 993.49.

6. Amend § 993.8 to read as follows:

§ 993.8 Standard processed prunes.

"Standard processed prunes" means any lot of processed prunes meeting the applicable grade and size standards prescribed pursuant to § 993.50.

7. Amend § 993.9 to read as follows:

§ 993.9 Substandard prunes.

"Substandard prunes" means any lot of processed or natural condition prunes failing to meet the applicable grade and size standards prescribed pursuant to § 993.49 and § 993.50.

8. Amend § 993.10 to read as follows:

§ 993.10 Handle.

"Handle" means to receive, package, sell, consign, transport, or ship (except as a carrier of prunes owned by another person), or in any other way to place prunes in the current of commerce within the area or from such area to points outside thereof: *Provided*, That this term shall not include: (a) Sales or deliveries of prunes by a producer or dehydrator to a producer, dehydrator, or handler within the area; (b) the receiving of prunes by a producer or dehydrator from a producer or dehydrator; and (c) receipts, sales, or shipments of prunes already handled by another person other than pursuant to § 993.50(f).

9. Amend § 993.16 to read as follows:

§ 993.16 Size.

"Size" means the number of prunes contained in a pound and may be referred to in terms of size ranges.

10. Amend § 993.18 to read as follows:

§ 993.18 Domestic.

"Domestic" means the United States, Canal Zone, Puerto Rico, Virgin Islands, and Canada.

11. Delete § 993.19.

12. Renumber § 993.20 as § 993.19.

13. Renumber § 993.21 as § 993.20.

PRUNE ADMINISTRATIVE COMMITTEE

14. Amend § 993.24 to read as follows:

§ 993.24 Establishment and membership.

The Prune Administrative Committee (hereinafter referred to as the "committee") shall be composed as selected by the Secretary for the term of office beginning June 1, 1960. Subsequent committees shall consist of 21 members, with an alternate member for each such member, of which 14 shall represent producers and 7 shall represent handlers. The member positions shall be allocated in accordance with the following groupings, with the alternate member positions identically allocated:

(a) Three handler members to represent handlers who are cooperative marketing associations;

(b) Three handler members to represent independent handlers;

(c) One handler member to represent handlers who are cooperative marketing associations or independent handlers, whichever handled as first handler more than 50 percent of the prunes handled by all handlers as first handlers during the crop year preceding the year in which nominations are made; and

(d) Fourteen producer members to be selected from and to represent producer members of cooperative marketing associations and independent producers, the number of each such type of members to be proportionate, as near as practicable, to the tonnages handled by the two types of handlers during the crop year preceding the year of selection.

15. Amend § 993.26 to read as follows:

§ 993.26 Selection.

Selection of members of the committee, and their respective alternates, shall be made by the Secretary, from eligible persons, in the appropriate number, from nominations submitted for that purpose by the groups to be represented, or from other eligible persons, in the discretion of the Secretary.

16. Amend § 93.27 to read as follows:

§ 993.27 Eligibility.

Each producer member and alternate member of the committee shall be at the time of his selection and during his term of office, a producer in the group and, where applicable, the district for which selected, and, except for cooperative producers, shall not be engaged in the handling of prunes either in a proprietary capacity or as a director, officer, or employee. Each handler member and alternate member of the committee shall be a handler of the group he represents or a director, officer, or employee of such a handler.

17. Amend § 993.28 to read as follows:

§ 993.28 Nominees.

(a) for the purpose of obtaining nominations for independent producer members and their alternates, the committee shall divide the area into districts, not to exceed seven in number, established so as to give, insofar as practicable, equal representation to each district from the standpoint of number of independent producers and production of prune tonnage by independent producers. Proposed candidates for such nominations for each district shall be obtained at a meeting held in each such district. Folowing such meetings the committee shall prepare for each district and mail to each independent producer of record in that district a ballot containing the names of the proposed candidates for that district, with pro-

vision on the ballot for write-in candidates. The committee may use such a ballot for two or more districts jointly: *Provided,* That the return shall be considered in the light of the voting by each district separately, and subject to the terms and conditions specified herein which are applicable to voting in individual districts. Each voter shall be entitled to cast only one vote for a member nominee and only one vote for an alternate member nominee. If such voter is an independent producer in more than one district, he shall elect in which of such districts he will vote. The person receiving the highest number of votes for a particular position shall be the nominee. Whenever the number of independent producer members exceeds seven, such additional independent producer members and their alternates shall be nominated by the seven independent producer member nominees elected by mail ballot. The committee shall submit to the Secretary the names of all nominees elected hereunder before April 16 of each election year.

(b) Nominations for cooperative producer positions and for cooperative handler positions shall be submitted to the Secretary by cooperative marketing associations engaged in the handling of prunes before April 16 of each election year.

(c) In any election year when the tonnage of prunes handled by independent handlers as first handlers during the preceding crop year exceeds the tonnage of prunes handled by cooperative marketing associations as first handlers during such crop year, nominations for the independent handler positions shall be made as follows:

(1) Such handlers who so handled the two largest percentages of the prune tonnage so handled by all independent handlers shall each nominate from his organization one member and one alternate member to represent him;

(2) Such handlers who so handled the next three largest percentages of the prune tonnage so handled by all independent handlers shall nominate from among their organizations one member and one alternate member to represent them;

(3) Such handlers who collectively so handled the remaining percentage of tonnage so handled by all independent handlers shall nominate from among their organizations one member and one alternate member to represent them.

In any election year when the tonnage of prunes handled by cooperative marketing associations as first handlers during the preceding crop year is more than the tonnage of prunes handled by independent handlers as first handlers during such crop year, nominations for the independent handler positions shall be made in accordance with the provisions of paragraph (c) (1) of this section, and the nomination for the remaining member and alternate position shall be made by those nominators included in paragraph (c) (2) and (3) of this section.

(d) The committee shall establish the method by which the foregoing nominations shall be obtained and shall submit such nominations to the Secretary before April 16 of the election year.

18. Amend § 993.30 to read as follows:

§ 993.30 Failure to nominate.

If a nomination for any position on the committee is not timely received, the Secretary may select an eligible individual without regard to nominations.

19. Amend § 993.32 to read as follows:

§ 993.32 Vacancies.

In the event of any vacancy occasioned by the failure of any person selected as a member or alternate member of the committee to accept such appointment or otherwise qualify, or, by the removal, resignation, disqualification, or death of any member or alternate member, a successor for such person's unexpired term shall be nominated within 60 calendar days after such vacancy occurs. Such nomination shall be made in the manner provided for in this subpart, insofar as applicable, except that nominations for independent producer member and alternate member positions may, at the discretion of the committee, be made to the committee by the incumbents of the remaining independent producer member positions. A cooperative marketing association, at its discretion, may recommend to the Secretary the removal of a member or alternate member representing such association.

20. Delete § 993.33.

21. Renumber § 993.34 as § 993.33 and amend to read as follows:

§ 993.33 Voting procedure.

Except as specifically otherwise provided in this section, all decisions of the committee shall be by majority vote of the members present and voting and a quorum must be present. A quorum shall consist of at least 12 members of whom at least eight must be producer members and at least four must be handler members. Except in case of emergency, a minimum of five days' advance notice must be given with respect to any meeting of the committee. In case of an emergency, to be determined within the discretion of the chairman of the committee, as much advance notice of a meeting as is practicable in the circumstances shall be given. The committee may vote by mail or telegram upon due notice to all members, but any proposition to be so voted upon first shall be explained accurately, fully, and identically by mail or telegram to all members. When any proposition is submitted for voting by such method, one dissenting vote shall prevent its adoption.

22. Renumber § 993.35 as § 993.34.

23. Renumber § 993.36 as § 993.35.

24. Renumber § 993.37 as § 993.36 and amend to read as follows:

§ 993.36 Duties.

The committee shall have, among others, the following duties:

(a) To act as intermediary between the Secretary and any producer, dehydrator, or handler;

(b) To keep minutes, books, and other records which shall clearly reflect all of its acts and transactions, and such minutes, books, and other records shall be subject to examination by the Secretary at any time;

(c) To make, subject to the prior approval of the Secretary, scientific and other studies, and assemble data on the producing, handling, shipping, and marketing conditions relative to prunes, which are necessary in connection with the performance of its official duties;

(d) To select, from among its members, a chairman and other appropriate officers, and to adopt such rules and regulations for the conduct of the business of the committee as it may deem advisable;

(e) To appoint or employ such other persons as it may deem necessary and to determine the salaries and define the duties of such persons;

(f) To submit to the Secretary not later than the fourth Tuesday of July of each year a budget of its anticipated expenditures and the recommended rate of assessment for the ensuing crop year, and the supporting data therefor;

(g) To submit to the Secretary such available information with respect to prunes as the committee may deem appropriate, or as the Secretary may request;

(h) To prepare and submit to the Secretary monthly statements of the financial operations of the committee and to make such statements, together with the minutes of the meetings of said committee, available for inspection at the offices of the committee by producers, dehydrators, and handlers;

(i) To cause the books of the committee to be audited by a certified public accountant at least once each crop year, and at such other times as the committee may deem necessary or as the Secretary may request. Two copies of such audit report shall be submitted to the Secretary and a copy which does not contain confidential data shall be available for inspection at the offices of the committee, by producers, dehydrators, and handlers;

(j) To give the Secretary the same notice of meetings of the committee as is given to the members of the committee;

(k) To give producers, dehydrators, and handlers reasonable advance notice of meetings of the committee, and to maintain all such meetings open to such persons;

(l) To investigate compliance with the provisions of this subpart and with any rules and regulations established pursuant to such provisions; and

(m) To establish, with the approval of the Secretary, such rules and procedures relative to administration of this subpart as may be consistent with the provisions contained in this subpart and as may be necessary to accomplish the purposes of the act and the efficient administration of this subpart.

MARKETING POLICY

25. Combine and renumber §§ 993.41, 993.42, 993.43, 993.44, and 993.45, as § 993.41, and amend the provisions thereof to read as follows:

§ 993.41 Marketing policy.

Prior to the fourth Tuesday of each July the committee shall prepare and submit to the Secretary a report setting

forth its recommended marketing policy for the ensuing crop year. In the event it becomes advisable to modify such policy, because of changed demand, supply or other conditions, the committee shall formulate a new policy and shall submit a report thereon to the Secretary. In developing the marketing policy, the committee shall give consideration to the handler carryover, production, probable quality and prune sizes in the crop, demands in domestic and foreign markets, whether grower prices are likely to exceed parity and the probable assessable tonnage for the purposes of § 993.81 and such other factors as may have a bearing on the marketing of prunes or the administration of this part. Notice of the committee's recommended policy shall be given promptly by reasonable publicity, to producers, dehydrators and handlers.

GRADE AND SIZE REGULATIONS

26. Delete §§ 993.48, 993.49 and 993.50, and substitute, in lieu thereof, §§ 993.48, 993.49, 993.50, 993.51, and 993.52, reading as follows:

§ 993.48 Regulation.

No person shall handle prunes except in accordance with the provisions of this part.

§ 993.49 Incoming regulation.

(a) Continuing until such regulation is superseded by other regulations prescribed by the Secretary, no handler shall receive prunes from producers or dehydrators, other than as substandard prunes, unless they meet the minimum standards for natural condition prunes as set forth in § 993.97 (Exhibit A): *Provided,* That no handler shall receive any prunes from producers or dehydrators unless such prunes have been properly dried and cured in original natural condition, without the addition of water, and free from active insect infestation, so that they are capable of being received, stored, and packed without material deterioration or spoilage. Any "high moisture content prunes," as described in the exception in § 993.4(b), in the possession of a handler, shall be held separate and apart from any prunes held by him. If such "high moisture content prunes" are dried or dehydrated to a point where they are capable of being stored, without material deterioration or spoilage, unrefrigerated or not otherwise artificially preserved, they shall be deemed, at that time, to have been received by such handler as prunes, and shall be subject to all of the conditions and restrictions of this subpart.

(b) The Secretary, on the basis of a recommendation of the committee or other information, may establish size regulations or more restrictive grade regulations with respect to prunes that may be received by a handler from producers and dehydrators if such action would tend to effectuate the declared policy of the Act.

(c) When an inspection certificate shows that a lot of substandard prunes received by a handler from a producer or dehydrator contains prunes with defects in excess of those permitted in § 993.97 I C (1) and (2) the quantity of prunes with such defects necessary to be removed from the lot in order that the balance of the lot would then be within the tolerances for such defects shall be determined and the handler shall dispose of an equivalent quantity of prunes affected by such defects in non-human consumption outlets: *Provided,* That the committee, by its rules and regulations, shall prescribe an outside percentage of such defects in any lot received by a handler, and any lot so received which contains a greater percentage of such defects, shall be disposed of in its entirety in non-human consumption outlets. In determining an equivalent quantity, due adjustments shall be made for variations in prune sizes and condition. The committee shall issue such rules and regulations as may be necessary to implement the provisions of this section and to insure compliance therewith.

§ 993.50 Outgoing regulation.

(a) Continuing until such regulation is superseded by other regulations prescribed by the Secretary, except as otherwise specifically provided, no handler shall ship or otherwise make final disposition of prunes which fail to meet the applicable minimum standards set forth in § 993.97 (Exhibit A) for standard prunes or standard processed prunes.

(b) The Secretary, on the basis of a recommendation of the committee or other information, may establish size regulations, pack specifications, or more restrictive grade regulations with respect to prunes that may be shipped or otherwise disposed of by a handler if such action would tend to effectuate the declared policy of the Act. If a more restrictive grade regulation is established in connection with § 993.97 (Exhibit A) it shall in so far as practicable apply comparably to both natural condition prunes and processed prunes. When pack specifications are in effect, no handler shall ship prunes in consumer packages, unless such prunes are identified by an appropriate label, seal, stamp, or tag affixed to such container by the handler showing the size of prunes in the lot from which the container was packed. In order to effectuate such orderly marketing of prunes as will be in the public interest, whether prices are above or below parity, no handler shall use descriptive terms in a manner inconsistent with that set forth in this subpart or in any regulation issued by the Secretary hereunder.

(c) No handler shall ship or otherwise make final disposition of any lot of standard prunes or standard processed prunes which includes non-French prunes except for use as prune products in which the prunes lose their form and character as prunes by conversion prior to consumption unless the average count of such non-French prunes is 50 or less per pound.

(d) No handler shall ship or otherwise make final disposition of any lot of consumer packages of prunes unless the average count of the prunes contained in such lot is 100 or less per pound. In determining whether a lot of consumer packages of prunes conforms to this minimum size requirement, the following tolerance shall apply: In a sample of 100 ounces, the count per pound of 10 ounces of the smallest prunes shall not vary from the count per pound of 10 ounces of the largest prunes by more than 45 points. The Secretary may, upon the basis of the recommendation and information submitted by the committee and other available information, modify or change this tolerance for uniformity of size.

(e) No handler shall ship or otherwise make final disposition of any lot of substandard prunes except for use as prune products in which the prunes lose their form and character as prunes by conversion prior to consumption, or for use in non-human consumption outlets: *Provided,* That any such prunes which are shipped or otherwise disposed of for human consumption shall meet the minimum standards prescribed in § 993.97 I C (1) and (2) or as such standards may be hereinafter modified. The committee shall issue any such rules and regulations as may be necessary to insure such uses.

(f) Notwithstanding the restrictions contained in this section, any handler may transfer prunes from one plant owned by him to another plant owned by him within the area without having an inspection made as provided for in § 993.51, and any handler may ship prunes from his plant to another handler's plant within the area without having an inspection made as provided for in § 993.51. A report of such inter-handler transfer shall be made promptly by the transferring handler to the committee. The receiving handler shall, before shipping or otherwise making final disposition of such prunes, comply with the requirements of this section and of § 993.51.

§ 993.51 Inspection and certification.

Each handler shall at his own expense, before or upon the receiving, and before the shipping or disposing of prunes, cause an inspection to be made of such prunes to determine whether they meet the applicable grade and size requirements or the pack specifications, including labeling, effective pursuant to this part. Such handler shall obtain a certificate that such prunes meet the aforementioned applicable requirements and shall submit such certificate, or cause it to be submitted, to the committee. Acceptable certificates shall be those issued by inspectors of the Dried Fruit Association of California. The Secretary may designate another inspection agency in the event the services of the Association prove unsatisfactory.

§ 993.52 Modification.

Minimum standards or pack specifications may be modified by the Secretary on the basis of a recommendation of the committee or other information that such modification would tend to effectuate the declared policy of the act.

SALABLE AND SURPLUS TONNAGE REGULATIONS

27. Delete §§ 993.59, 993.60, 993.61, 993.62, 993.63, and 993.64.

REPORTS AND RECORDS

28. Delete §§ 993.73 and 993.74.
29. Renumber § 993.75 as § 993.73.
30. Renumber § 993.76 as § 993.74.
31. Renumber § 993.77 as § 993.75.

EXPENSES AND ASSESSMENTS

32. Amend § 993.80 to read as follows:

§ 993.80 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each crop year for the maintenance and functioning of the committee and for such other purposes as the Secretary may, pursuant to the provisions of this subpart, determine to be appropriate.

33. Amend § 993.81 by deleting paragraph (d) and amending paragraphs (a) and (c) to read as follows:

§ 993.81 Assessments.

(a) Each handler shall pay to the committee, upon demand, with respect to all prunes received by him, his pro rata share of all expenses which the Secretary finds are reasonable and likely to be incurred by the committee during each crop year. Each handler's pro rata share shall be the rate of assessment per ton fixed by the Secretary. At any time during or after a crop year the Secretary may increase the rate of assessment to cover unanticipated expenses of the committee or a deficit in assessable tonnage.

* * * * *

(c) Any money collected as assessments during any crop year and not expended in connection with the committee's operations may be used by the committee for a period of five months subsequent to such crop year. At the end of such period the committee shall, from funds on hand, refund or credit to handler accounts the aforesaid excess. Each handler's share of such excess funds shall be the amount of assessments he has paid in excess of his pro rata share of the expenses of the committee for the preceding crop year. Any money collected from assessments hereunder and remaining unexpended in the possession of the committee at the termination of this part, shall be distributed in such manner as the Secretary may direct: *Provided,* That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

34. Amend § 993.82 to read as follows:

§ 993.82 Funds.

All funds received by the committee pursuant to the provisions of this part shall be used solely for authorized purposes. The Secretary may, at any time, require the committee or its members and alternate members to account for all receipts and disbursements.

MISCELLANEOUS PROVISIONS

35. Add a new § 993.94 to read as follows:

§ 993.94 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption of prunes. The expense of such projects shall be paid from funds collected pursuant to § 993.81.

36. Make such changes in the marketing agreement and order as may be necessary to make the entire marketing agreement and order conform to any amendment proposals which may be adopted as a result of this hearing.

The following amendment has been proposed by the Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture:

37. Add a new § 993.83 under MISCELLANEOUS PROVISIONS to read as follows:

§ 993.83 Rights of the Secretary.

The members of the committee (including successors, alternates or other persons selected by the Secretary), and any agent or employee appointed or employed by the committee, shall be subject to the removal or suspension by the Secretary, in his discretion at any time. Each and every order, regulation, decision, determination, or other acts of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith.

Copies of this notice may be obtained from the Berkeley Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, 2082 Center Street, Mercantile Building, Berkeley 4, California, or from the Hearing Clerk, Administration Building, United States Department of Agriculture, Washington 25, D.C., or may be there inspected.

Dated: April 1, 1960.

ORIS V. WELLS,
Administrator,
Marketing Services.

[F.R. Doc. 60-3174; Filed, Apr. 6, 1960; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Part 140]

FINANCIAL PROTECTION REQUIREMENTS AND INDEMNITY AGREEMENTS

The following proposed amendments are intended to establish the form of indemnity agreement which the Commission would execute with licensees furnishing insurance policies as proof of financial protection (§ 140.76 *Appendix B*); and to establish the form of indemnity agreement which the Commission would enter into with licensees furnishing proof of financial protection in the form of the licensee's resources (§ 140.77 *Appendix C*). The forms of indemnity agreement which the Commission will enter into with non-profit educational institutions and federal government agencies are in preparation.

The revised proposed form of indemnity agreement contained in § 140.76 *Appendix B* will be entered into by the Commission with licensees who furnish proof of financial protection in the form of the insurance policy in § 140.75 *Appendix A*. The principal changes in this form of indemnity agreement as compared with that published for public comment on August 28, 1958 and May 1, 1959 include the following:

1. The new form of indemnity agreement includes common occurrence provisions (Article I, par. 3; Article II, par. 7; Article III, par. 4) which are similar to the common occurrence provisions in the NELIA and MAELU insurance policy (§ 140.75 *Appendix A*). Inclusion of the common occurrence provision in the indemnity agreement goes far towards eliminating a gap in protection which might otherwise exist.

The common occurrence provisions in the indemnity agreement do not fully eliminate the gap in coverage which may result from a "common occurrence." A remaining possible gap is due to the fact that, although the Commission's obligations under the common occurrence provisions begin at an amount equal to the sum of all applicable insurance required under the regulations or $60,000,000, whichever is lower, NELIA and MAELU limit their responsibility to the capacity of their respective pools; that is, if all of the insurance policies applicable to the common occurrence are issued by one of the syndicates, the obligation of the insurers would not exceed the capacity of the particular syndicate ($46,500,000 in the case of NELIA or $13,500,000 in the case of MAELU).

2. Provisions are included (Article I, par. 4(c)) to protect against double coverage in the event a nuclear incident occurs in transportation of nuclear material between two indemnified licensed facilities. Under these provisions, the shipper's agreement would be applicable and the consignee's agreement would not be applicable.

Parenthetically it may be noted that a principal purpose of provisions covering transportation "to the location" is to cover shipments of nuclear fuel directly from a fuel element fabricator's plant to the site of the reactor in which the elements will be used as fuel.

3. Licensees furnishing proof of financial protection in the form of their own resources are required "to indemnify and hold harmless all persons indemnified as their interest may appear from public liability * * *." This obligation includes coverage of liability for damage to on-site property. Because the form of NELIA–MAELU policy does not cover such liability, the indemnity agreement requires licensees furnishing the policies as financial protection to indemnify any person against liability for damage to on-site property (Article II, par. 2(b)). On April 8, 1959, the Commission recommended to the Congress that the indemnity provisions of the Atomic Energy Act of 1954 (section 170) be amended to eliminate coverage of liability for damage to so called "on-site" property. If

the recommended amendment is enacted, paragraph 2b., Article II, of the proposed indemnity agreement would be deleted and a corresponding change would be made in the provisions of Article III of the Agreement.

4. Under the Atomic Energy Act of 1954, as amended, the Commission is required to indemnify against damage to property of persons indemnified, provided that such property is covered under the terms of the financial protection and is not located at the site of, and used in connection with, the activity where the nuclear incident occurs. The financial protection provided by the NELIA–MAFLU policy form covers damage to property of persons indemnified only if the property is away from the site. The form of indemnity agreement in § 140.76 *Appendix B* has been clarified to exclude coverage of damage to on-site property of persons liable for the nuclear incident (Article III, par. 2).

5. A provision has been added to the indemnity agreement (Paragraph b. of Item 2 of the Attachment thereto) under which the Commission would fill a "gap" between the financial protection and the Commission's indemnity obligation, which results from payments made by the insurers under a nuclear energy liability insurance policy. The provision includes a "floor", so that the Commission obligation under this provision would not go below $1 million. In the event that the licensee does not obtain reinstatement of the amount of financial protection within ninety days after the date of a payment under the policy, a provision has been added under which the Commission may issue an order requiring the licensee to furnish financial protection in another form (Article II, par. 2(a)).

The changes described above with respect to § 140.76 *Appendix B*, have been incorporated, as appropriate, in § 140.77 *Appendix C*.

Notice is hereby given that the Commission is considering adoption of the following amendments. All interested persons who desire to submit written comments and suggestions for consideration in connection with the proposed amendments should send them to the United States Atomic Energy Commission, Washington 25, D.C., Attention: Director, Division of Licensing and Regulation, within sixty days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration can not be given except as to comments sent to the Director within the period specified.

§ 140.20 [Amendment]

1. Amend § 140.20(b) to read as follows:

(b) (1) The general form of indemnity agreement to be entered into by the Commission with licensees who furnish financial protection in the form of the nuclear energy liability insurance policy set forth in § 140.75 is contained in § 140.76. The general form of indemnity agreement to be entered into by the Commission with licensees who furnish financial protection in the form specified in § 140.14(a)(2) is set forth in § 140.77.

(2) The form of indemnity agreement to be entered into by the Commission with any particular licensee under this part shall contain such modifications of the applicable form in §§ 140.76 and 140.77, as are provided for in applicable licenses, regulations or orders of the Commission.

(3) Each licensee who has executed an indemnity agreement under this part shall enter into such agreements amending such indemnity agreement as are required by applicable licenses, regulations or orders of the Commission.

2. The following § 140.76 *Appendix B* is added:

§ 140.76 Appendix B

This indemnity agreement # ------ is entered into by and between the ---------- (hereinafter referred to as the "licensee") and the United States Atomic Energy Commission (hereinafter referred to as the "Commission") pursuant to subsection 170 c. of the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act").

ARTICLE I

As used in this agreement:

1. "Nuclear reactor," "byproduct material," "person," "financial protection," "source material," and "special nuclear material" shall have the meanings given them in the Atomic Energy Act of 1954, as amended, and the regulations issued by the Commission;

2. "Amount of financial protection" means the amount specified in Item 2 of the Attachment annexed hereto.

3. (a) "Nuclear incident" means any occurrence or series of occurrences at the location or in the course of transportation causing bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of the radioactive material.

(b) Any occurrence or series of occurrences causing bodily injury, sickness, disease or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive or other hazardous properties of

i. the radioactive material discharged or dispersed from the location over a period of days, weeks, months or longer and also arising out of such properties of other material defined as "the radioactive material" in any other agreement or agreements entered into by the Commission under subsection 170 c. of the Act and so discharged or dispersed from "the location" as defined in any such other agreement, or

ii. the radioactive material in the course of transportation and also arising out of such properties of other material defined in any other agreement entered into by the Commission pursuant to subsection 170 c. of the Act as "the radioactive material" and which is in the course of transportation

shall be deemed to be a common occurrence. A common occurrence shall be deemed to constitute a single nuclear incident.

4. "In the course of transportation" means in the course of transportation within the United States, including handling or temporary storage incidental thereto, of the radioactive material to the location or from the location provided that:

(a) With respect to transportation of the radioactive material to the location, such transportation is not by pre-determination to be interrupted by the removal of the material from the transporting conveyance for any purpose other than the continuation of such transportation to the location or temporary storage incidental thereto;

(b) The transportation of the radioactive material from the location shall be deemed to end when the radioactive material is removed from the transporting conveyance for any purpose other than the continuation of transportation or temporary storage incidental thereto;

(c) "In the course of transportation" as used in this agreement shall not include transportation of the radioactive material to the location if the material is also "in the course of transportation" from any other "location" as defined in any other agreement entered into by the Commission pursuant to subsection 170c. of the Act.

5. "Person indemnified" means the licensee and any other person who may be liable for public liability.

6. "Public liability" means any legal liability arising out of or resulting from a nuclear incident, except (1) claims under state or Federal Workmen's Compensation Acts of employees of persons indemnified who are employed at the location and in connection with the licensee's possession, use or transfer of the radioactive material; and (2) claims arising out of an act of war.

7. "The location" means the location described in Item 4 of the Attachment hereto.

8. "The radioactive material" means source, special nuclear, and byproduct material which (1) is used or to be used in, or irradiated by the nuclear reactor or reactors subject to the license or licenses designated in the Attachment hereto, or (2) which is produced as the result of operation of said reactor(s).

9. "United States" where used in a geographical sense includes all Territories and possessions of the United States, the Canal Zone and Puerto Rico.

ARTICLE II

1. At all times during the term of the license or licenses designated in Item 3 of the Attachment hereto, the licensee will maintain financial protection in the amount specified in Item 2 of the Attachment and in the form of the nuclear energy liability insurance policy designated in the Attachment. If more than one license is designated in Item 3 of the Attachment, the licensee agrees to maintain such financial protection until the end of the term of that license which will be the last to expire. The licensee shall, notwithstanding the expiration, termination, modification, amendment, suspension or revocation of any license or licenses designated in Item 3 of the Attachment, maintain such financial protection in effect until all the radioactive material has been removed from the location and transportation of the radioactive material from the location has been completed as provided in paragraph 4, Article I, or until the Commission authorizes the termination or the modification of such financial protection. The Commission will not unreasonably withhold such authorization.

2. (a) Upon the occurrence of any event which reduces the limit of liability provided under the said policy, the licensee will promptly apply to his insurers for reinstatement of the amount specified in Item 2 of the Attachment (without reference to paragraph b. of Item 2) and will make all reasonable efforts to obtain such reinstatement. In the event that the licensee has not obtained reinstatement of such amount within ninety days after the date of such reduction, the Commission may issue an order requiring the licensee to furnish financial protection for such amount in another form.

(b) The licensee undertakes and agrees to indemnity and hold harmless all persons indemnified, as their interest may appear, from public liability for damage to property which is at the location.

3. The licensee agrees that it will hold the United States and the Commission harmless from any damages resulting from the use or possession of special nuclear material by the licensee.

4. The obligations of the licensee under paragraphs 2(b) and 3 of this Article, together with any public liability satisfied by the insurers under the policy or policies designated in the Attachment hereto, shall not in the aggregate exceed the amount of financial protection with respect to any nuclear incident, including the reasonable costs of investigating and settling claims and defending suits for damage.

5. The obligations of the licensee under paragraphs 2(b) and 3 of this Article shall apply only with respect to nuclear incidents occurring during the term of the license designated in Item 3 of the Attachment. If more than one license is designated in Item 3 of the Attachment, the obligations of the licensee under paragraphs 2(b) and 3 of this Article shall apply only with respect to nuclear incidents occurring prior to the end of the term of that license which is the last to expire. The obligations of the licensee under paragraphs 2(b) and 3 of this Article shall not apply with respect to nuclear incidents occurring prior to the effective date of this agreement as specified in the Attachment.

6. Upon the expiration or revocation of any license designated in Item 3 of the Attachment, the Commission will enter into an appropriate amendment of this agreement with the licensee reducing the amount of financial protection required under this Article; provided, that the licensee is then entitled to a reduction in the amount of financial protection under applicable Commission regulations and orders.

7. With respect to a common occurrence, if the sum of the amounts specified in Item 2 of the Attachment hereto and the Attachments annexed to all other applicable agreements exceeds $60,000,000, the obligations of the licensee under this agreement shall not exceed a greater proportion of $60,000,000 than the amount specified in Item 2 of the Attachment hereto bears to the sum of such amount and the amounts specified in Item 2 of the Attachments annexed to all other applicable agreements. As used in this paragraph, and subparagraph 4(b), Article III, "other applicable agreements" means each other agreement entered into by the Commission pursuant to subsection 170c of the Act in which agreement the nuclear incident is defined as a "common occurrence."

8. The obligations of the licensee under this Article shall not be affected by any failure or default on the part of the Commission or the Government of the United States to fulfill any or all of its obligations under this agreement. Bankruptcy or insolvency of any person indemnified other than the licensee, or the estate of any person indemnified other than the licensee, shall not relieve the licensee of any of his obligations hereunder.

ARTICLE III

1. The Commission undertakes and agrees to indemnify and hold harmless the licensee and other persons indemnified, as their interest may appear, from public liability.

2. With respect to damage caused by a nuclear incident to property of any person legally liable for the nuclear incident, other than property which is located at the location, the Commission agrees to pay to such person those sums which the Commission would have obligated to pay under this agreement if such property had belonged to another. The obligation of the Commission under this paragraph 2 does not apply to property damage due to neglect of the person indemnified to use all reasonable means to save and preserve the property after knowledge of a nuclear incident.

3. The Commission agrees to indemnify and hold harmless the licensee, and other persons indemnified as their interest may appear, from the reasonable costs of investigating, settling and defending claims for public liability.

4. (a) The obligations of the Commission under this Article shall apply only with respect to such public liability, such damage to property of persons legally liable for the nuclear incident, and such reasonable costs described in paragraph 3 of this Article as in the aggregate exceed the amount of financial protection.

(b) With respect to a common occurrence, the obligations of the Commission under this Article shall apply only with respect to such public liability, such damage to property of persons legally liable for the nuclear incident, and to such reasonable costs described in paragraph 3 of this Article, as in the aggregate exceed whichever of the following is lower: (1) The sum of the amounts specified in Item 2 of the Attachment hereto and the Attachments annexed to all other applicable agreements; or (2) $60,000,000.

5. The obligations of the Commission under this Article shall apply only with respect to nuclear incidents occurring during the term of the license designated in Item 3 of the Attachment. If more than one license is designated in Item 3 of the Attachment the obligations of the Commission under this Article shall apply only with respect to nuclear incidents occurring prior to the end of the term of that license which is the last to expire. The obligations of the Commission under this Article shall not apply with respect to nuclear incidents occurring prior to the effective date of this agreement as specified in the Attachment.

6. The obligations of the Commission under this and all other agreements and contracts to which the Commission is a party shall not in the aggregate exceed $500,000,000 with respect to any nuclear incident.

7. The obligations of the Commission under this Article, except to the licensee for damage to property of the licensee, shall not be affected by any failure on the part of the licensee to fulfill its obligations under this agreement. Bankruptcy or insolvency of the licensee or any other person indemnified or of the estate of the licensee or any other person indemnified shall not relieve the Commission of any of its obligations hereunder.

ARTICLE IV

1. When the Commission determines that the United States will probably be required to make indemnity payments under the provisions of this agreement, the Commission shall have the right to collaborate with the licensee and other persons indemnified in the settlement and defense of any claim and shall have the right (a) to require the prior approval of the Commission for the settlement or payment of any claim asserted against the licensee or other person indemnified for public liability or damage to property of persons legally liable for the nuclear incident which claim the licensee or the Commission may be required to indemnify under this agreement; and (b) to appear through the Attorney General of the United States on behalf of the licensee or other person indemnified, take charge of such action and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by the Commission, the licensee shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

2. Neither this agreement nor any interest therein nor claim thereunder may be assigned or transferred without the approval of the Commission.

ARTICLE V

The parties agree that they will enter into appropriate amendments of this agreement to the extent that such amendments are required pursuant to the Atomic Energy Act of 1954, as amended, or licenses, regulations or orders of the Commission.

ARTICLE VI

The license agrees to pay to the Commission such fees as are established by the Commission pursuant to regulation or order.

UNITED STATES ATOMIC ENERGY COMMISSION

Indemnity Agreement No. _____

ATTACHMENT

Item 1. Licensee _____.
Address _____.
Item 2a. Amount of financial protection _____.

b. With respect to any nuclear incident, the amount specified in this Item 2 of this Attachment shall be deemed to be reduced to the extent that any payment made by the insurer or insurers under a policy or policies specified in Item 5 of this Attachment reduces the aggregate amount of such insurance policies below $_____; provided that (1) the amount specified in this item shall in no event be deemed to be reduced to less than $1 million; and (2) the amount specified in this item shall not be deemed to be reduced to an amount less than the aggregate amount of insurance available for such nuclear incident under all policies specified in Item 5 of this Attachment.

Item 3. License Number or Numbers _____.
Item 4. Location _____.

Item 5. Insurance Policy No.(s) _____
The Indemnity Agreement designated above, of which this Attachment is a part, is effective as of _____ m., on the _____ day of _____, 19__, and shall continue until the effective date of the expiration or termination of the agreement pursuant to the Atomic Energy Act of 1954, as amended, and applicable regulations or orders of the Commission.

For the United States Atomic Energy Commission.

By _____
For the _____
(Name of Licensee)
By _____

Dated at Germantown, Md., the _____ day of _____, 19__.

3. The following § 140.77 *Appendix C* is added:

§ 140.77 Appendix C.

This indemnity agreement #_____ is entered into by and between the _____ (hereinafter referred to as the "licensee") and the United States Atomic Energy Commission (hereinafter referred to as the "Commission") pursuant to subsection 170c. of the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act").

ARTICLE I

As used in this agreement,

1. "Nuclear reactor," "byproduct material," "person," "financial protection," "source material," and "special nuclear material" shall have the meanings given them in the Atomic Energy Act of 1954, as amended, and the regulations issued by the Commission;

2. "Amount of financial protection" means the amount specified in Item 2 of the Attachment annexed hereto;

3. (a) "Nuclear incident" means any occurrence or series of occurrences at the location or in the course of transportation causing bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, ex-

plosive, or other hazardous properties of the radioactive material.

(b) Any occurrence or series of occurrences causing bodily injury, sickness, disease or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive or other hazardous properties of

i. the radioactive material discharged or dispersed from the location over a period of days, weeks, months or longer and also arising out of such properties of other material defined as "the radioactive material" in any other agreement or agreements entered into by the Commission under subsection 170 c. of the Act and so discharged or dispersed from "the location" as defined in any such other agreement, or

ii. the radioactive material in the course of transportation and also arising out of such properties of other material defined in any other agreement entered into by the Commission pursuant to subsection 170 c. of the Act as "the radioactive material" and which is in the course of transportation

shall be deemed to be a common occurrence. A common occurrence shall be deemed to constitute a single nuclear incident.

4. "In the course of transportation" means in the course of transportation within the United States, including handling or temporary storage incidental thereto, of the radioactive material to the location or from the location provided that:

(a) With respect to transportation of the radioactive material to the location, such transportation is not by pre-determination to be interrupted by the removal of the material from the transporting conveyance for any purpose other than the continuation of such transportation to the location or temporary storage incidental thereto;

(b) The transportation of the radioactive material from the location shall be deemed to end when the radioactive material is removed from the transporting conveyance for any purpose other than the continuation of transportation or temporary storage incidental thereto;

(c) "In the course of transportation" as used in this agreement shall not include transportation of the radioactive material to the location if the material is also "in the course of transportation" from any other "location" as defined in any other agreement entered into by the Commission pursuant to subsection 170c. of the Act.

5. "Person indemnified" means the licensee and any other person who may be liable for public liability.

6. "Public liability" means any legal liability arising out of or resulting from a nuclear incident, except (1) claims under state or Federal Workmen's Compensation Acts of employees of persons indemnified who are employed at the location and in connection with the licensee's possession, use or transfer of the radioactive material; and (2) claims arising out of an act of war.

7. "The location" means the location described in Item 4 of the Attachment hereto.

8. "The radioactive material" means source, special nuclear, and byproduct material which (1) is used or to be used in, or irradiated by, the nuclear reactor or reactors subject to the license or licenses designated in the Attachment hereto, or (2) which is produced as the result of operation of said reactor(s).

9. "United States" when used in a geographical sense includes all Territories and possessions of the United States, the Canal Zone and Puerto Rico.

ARTICLE II

1. The licensee undertakes and agrees to indemnify and hold harmless all persons indemnified, as their interest may appear, from public liability.

2. With respect to damage caused by a nuclear incident to property of any person legally liable for the incident, the licensee agrees to pay to such person those sums which such person would have been obligated to pay if such property had belonged to another; provided, that the obligation of the licensee under this paragraph 2 does not apply with respect to:

(a) Property which is located at the location and used in connection with the licensee's possession, use or transfer of the radioactive material;

(b) Property damage due to neglect of the person indemnified to use all reasonable means to save and preserve the property after knowledge of a nuclear incident.

3. The licensee agrees that it will hold the United States and the Commission harmless from any damages resulting from the use or possession of special nuclear material by the licensee.

4. The obligations of the licensee under paragraphs 1, 2, and 3 of this Article shall not in the aggregate exceed the amount of financial protection with respect to any nuclear incident, including the reasonable costs of investigating and settling claims and defending suits for damage.

5. The obligations of the licensee under paragraphs 1, 2, and 3 of this Article shall apply only with respect to nuclear incidents occurring during the term of the license designated in Item 3 of the Attachment. If more than one license is designated in Item 3 of the Attachment, the obligations of the licensee under paragraphs 1, 2, and 3 of this Article shall apply only with respect to nuclear incidents occurring prior to the end of the term of that license which is the last to expire. The obligations of the licensee under paragraphs 1, 2, and 3 of this Article shall not apply with respect to nuclear incidents occurring prior to the effective date of this agreement as specified in the Attachment.

6. Upon the expiration or revocation of any license designated in Item 3 of the Attachment, the Commission will enter into an appropriate amendment of this agreement with the licensee reducing the amount of financial protection required under this Article; provided, that the licensee is then entitled to a reduction in the amount of financial protection under applicable Commission regulations and orders.

7. With respect to a common occurrence, if the sum of the amounts specified in Item 2 of the Attachment hereto and the Attachments annexed to all other applicable agreements exceeds $60,000,000, the obligations of the licensee under this agreement shall not exceed a greater proportion of $60,000,000 than the amount specified in Item 2 of the Attachment hereto bears to the sum of such amount and the amounts specified in Item 2 of the Attachments annexed to all other applicable agreements. As used in this paragraph, and in subparagraph 4(b), Article III, "other applicable agreements" means each other agreement entered into by the Commission pursuant to subsection 170 c. of the Act in which agreement the nuclear incident is defined as a "common occurrence".

8. The obligations of the licensee under this Article shall not be affected by any failure or default on the part of the Commission or the Government of the United States to fulfill any or all of its obligations under this agreement. Bankruptcy or insolvency of any person indemnified other than the licensee, or the estate of any person indemnified other than the licensee, shall not relieve the licensee of any of his obligations hereunder.

ARTICLE III

1. The Commission undertakes and agrees to indemnify and hold harmless the licensee and other persons indemnified, as their interest may appear, from public liability.

2. With respect to damage caused by a nuclear incident to property of any person legally liable for the nuclear incident, other than property which is located at the location and used in connection with the licensee's possession, use or transfer of the radioactive material, the Commission agrees to pay to such person those sums which the Commission would have been obligated to pay under this agreement if such property had belonged to another. The obligation of the Commission under this paragraph 2 does not apply to property damage due to neglect of the person indemnified to use all reasonable means to save and preserve the property after knowledge of a nuclear incident.

3. The Commission agrees to indemnify and hold harmless the licensee, and other persons indemnified as their interest may appear, from the reasonable costs of investigating, settling and defending claims for public liability.

4. (a) The obligations of the Commission under this Article shall apply only with respect to such public liability, such damage to property of persons legally liable for the nuclear incident, and such reasonable costs described in paragraph 3 of this Article as in the aggregate exceed the amount of financial protection.

(b) With respect to a common occurrence, the obligations of the Commission under this Article shall apply only with respect to such public liability, such damage to property of persons legally liable for the nuclear incident and to such reasonable costs described in paragraph 3 of this Article as in the aggregate exceed whichever of the following is lower: (1) sum of the amounts specified in Item 2 of the Attachment hereto and the Attachments annexed to all other applicable agreements; or (2) $60,000,000.

5. The obligations of the Commission under this Article shall apply only with respect to nuclear incidents occurring during the term of the license designated in Item 3 of the Attachment. If more than one license is designated in Item 3 of the Attachment the obligations of the Commission under this Article shall apply only with respect to nuclear incidents occurring prior to the end of the term of that license which is the last to expire. The obligations of the Commission under this Article shall not apply with respect to nuclear incidents occurring prior to the effective date of this agreement as specified in the Attachment.

6. The obligations of the Commission under this and all other agreements and contracts to which the Commission is a party shall not in the aggregate exceed $500,000,000 with respect to any nuclear incident.

7. Obligations of the Commission under this Article, except to the licensee for damage to property of the licensee, shall not be affected by any failure on the part of the licensee to fulfill its obligations under this agreement. Bankruptcy or insolvency of the licensee or any other person indemnified or of the estate of the licensee or any other person indemnified shall not relieve the Commission of any of its obligations hereunder.

ARTICLE IV

1. When the Commisison determined that the United States will probably be required to make indemnity payments under the provisions of this agreement, the Commission shall have the right to collaborate with the licensee and other persons indemnified in the settlement and defense of any claim and shall have the right (a) to require the prior approval of the Commission for the settlement or payment of any claim asserted against the licensee or other person indemnified for public liability or damage to property of persons legally liable for the nuclear incident which claim the licensee or the Commission may be required to in-

demnify under this agreement; and (b) to appear through the Attorney General of the United States on behalf of the licensee or other person indemnified, take charge of such action and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by the Commission, the licensee shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

2. Neither this agreement nor any interest therein nor claim thereunder may be assigned or transferred without the approval of the Commission.

ARTICLE V

The parties agree that they will enter into appropriate amendments of this agreement to the extent that such amendments are required pursuant to the Atomic Energy Act of 1954, as amended, or licenses, regulations or orders of the Commission.

ARTICLE VI

The licensee agrees to pay to the Commission such fees as are established by the Commission pursuant to regulation or order.

UNITED STATES ATOMIC ENERGY COMMISSION

Indemnity Agreement No.------

ATTACHMENT

Item 1. Licensee ----------
Address ----------
Item 2. Amount of financial protection ----------
Item 3. License Number or Numbers ----------
Item 4. Location ----------

The Indemnity Agreement designated above, of which this Attachment is a part, is effective as of ------ m., on the ------ day of ----------, 19--, and shall continue until the effective date of the expiration or termination of the agreement pursuant to the Atomic Energy Act of 1954, as amended, and applicable regulations or orders of the Commission.

For the United States Atomic Energy Commission.

By ----------
For the ----------
(Name of licensee)
By ----------

Dated at Germantown, Md., the ------ day of ----------, 19--.

Dated at Germantown, Md., this 30th day of March 1960.

For the Atomic Energy Commission.

A. R. LUEDECKE,
General Manager.

[F.R. Doc. 60-3091; Filed, Apr. 6, 1960; 8:45 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 600]

[Airspace Docket No. 60-LA-6]

FEDERAL AIRWAYS

Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 600.6006 of the regulations of the Administrator, the substance of which is stated below.

VOR Federal airway No. 6 presently extends in part from Sacramento, Calif., to Lovelock, Nev., including a north alternate between Sacramento and Reno, Nev. The Federal Aviation Agency is considering modifying Victor 6 by realigning it from the Sacramento VOR via a VOR to be installed approximately October 1, 1960, near Lake Tahoe, Calif., at latitude 39°10'50" N., longitude 120°16'07" W., to the Reno, Nev., VOR. In addition, the north alternate from the Sacramento VOR to the Reno VOR would be realigned via the Sacramento VOR 038° and the Reno VOR 257° True radials, and a new south alternate would be designated between the Reno VOR and the Lovelock, Nev., VOR via a VOR to be installed approximately May 4, 1960, near Fallon, Nev., at latitude 39°30'58" N., longitude 118°59'47" W., direct station to station. These modifications would facilitate air traffic management by providing more precise navigational guidance along the airway. The modification of Victor 6 north alternate between the Sacramento VOR and the Reno VOR would provide sufficient lateral separation between aircraft operating on the north alternate airway and aircraft operating on the realigned main airway segment to permit simultaneous use at the same altitudes. The designation of a south alternate between the Reno VOR and the Lovelock VOR via the Fallon VOR would provide a departure and arrival route for aircraft operating into and out of the Reno terminal area. The control areas associated with Victor 6 are so designated that they would automatically conform with the modified airway. Accordingly, no amendment relating to such control areas would be necessary.

If this action is taken, VOR Federal airway No. 6 segment from Sacramento, Calif., to Lovelock, Nev., would be modified by realigning the main airway from Sacramento, Calif., via Lake Tahoe, Calif., and Reno, Nev. VOR Federal airway No. 6 north alternate would be realigned from Sacramento to Reno via the Sacramento VOR 038° and the Reno VOR 257° True radials. VOR Federal airway No. 6 south alternate would be designated from Reno to Lovelock via Fallon, Nev.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C. on April 1, 1960.

D. D. THOMAS,
Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-3155; Filed, Apr. 6, 1960; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 13340; FCC 60-332]

INTERIM POLICY ON VHF TELEVISION CHANNEL ASSIGNMENTS

Order Extending Time for Filing Comments

In the matter of interim policy on VHF television channel assignments and amendment of Part 3 of the rules concerning television engineering standards, Docket No. 13340.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 30th day of March 1960;

The Commission has before it for consideration a petition filed March 30, 1960, in this proceeding by the Association of Federal Communications Consulting Engineers requesting that the time for filing comments herein be extended for 60 days. That request has been supported in a statement filed by the Association of Maximum Service Telecasters, Inc.

The petition states that additional time will be needed to study any new propagation curves which may be proposed. The Commission has reviewed the engineering curves proposed in this docket. It appears desirable to revise those curves and we expect to announce revised proposed curves not later than

May 1, 1960. The petition therefore sets forth good cause for the requested extension of time and such extension would be in the public interest.

Accordingly, it is ordered, This 30th day of March 1960, that the time for filing comments herein is extended to and including June 20, 1960, and the time for filing reply comments is extended to and including July 5, 1960.

Released: April 4, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-3191; Filed, Apr. 6, 1960; 8:50 a.m.]

[47 CFR Part 3]

[Docket No. 13374; FCC 60-334]

TABLE OF ASSIGNMENTS; TELEVISION BROADCAST STATIONS

Order Extending Time for Filing Comments

In the matter of amendment of § 3.606, *table of assignments,* television broadcast stations (Grand Rapids, Cadillac, Traverse City and Alpena, Michigan), Docket No. 13374.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 30th day of March 1960;

In orders adopted today (FCC 60-332 and FCC 60-333) the Commission extended time for filing comments in Dockets 13340 (Interim Policy on VHF Television Channel Assignments and Amendment of Part 3 of the Rules concerning Television Engineering Standards) and 13375 (Amendment of § 3.606, Table of Assignments, Television Broadcast Stations, New Bedford, Mass.-Providence, Rhode Island).

As in the case of Docket 13375, the instant proceeding involves proposals to assign a VHF channel at substandard separations under conditions set out in the Notice of Proposed Rule Making adopted January 4, 1960, in Docket 13340 (FCC 60-1). A current review of the curves appended to that Notice indicates the desirability of their revision. It is expected that they will be ready for release before May 1, 1960. In the circumstance, and consistently with our similar action today in Docket 13375, we herein extend the time for filing comments in the instant proceeding.

Accordingly, it is ordered, That, the last dates for filing comments and reply comments in this proceeding are extended to June 20, 1960, and July 5, 1960, respectively.

Released: April 4, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-3192; Filed, Apr. 6, 1960; 8:50 a.m.]

[47 CFR Part 3]

[Docket No. 13375; FCC 60-333]

TABLE OF ASSIGNMENTS; TELEVISION BROADCAST STATIONS

Order Extending Time for Filing Comments

In the matter of amendment of § 3.606, table of assignments, television broadcast stations (Providence, Rhode Island and New Bedford, Massachusetts), Docket No. 13375.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 30th day of March 1960;

This proceeding was initiated by notice of proposed rule making adopted January 27, 1960 (FCC 60-57) inviting comments on a proposal to reassign Channel 6 from New Bedford, Massachusetts to Providence, Rhode Island, and to permit its use there at substandard co-channel spacings to stations operating on Channel 6 at Schenectady, New York, and Portland, Maine. The proposal contemplated that the operation of a new station on Channel 6 at Providence would be subjected to conditions and limitations set out in the Notice of Proposed Rule Making adopted January 4, 1960, in Docket No. 13340 (FCC 60-1), a proceeding concerned with "Interim Policy on VHF Television Station Assignments and Amendment of Part 3 of the Rules concerning Television Engineering Standards."

On March 25, 1960, Maine Radio and Television Company, licensee of WCSH-TV, licensed to operate on Channel 6 at Portland, filed a request that the due date for comments in the instant proceeding—April 16, 1960, be postponed until 60 days after final Commission action in Dockets 12433 and 13340. With reference to Docket 13340, Maine urges that since that docket is concerned with the adoption of the policies and standards generally applicable to new VHF channel assignments at substandard spacings, it is appropriate that the time for filing comments in the instant proceeding relating to such a short spaced assignment at Providence be deferred until after the new policy and standards under consideration in Docket 13340 are adopted. Granting this request would, however, further postpone the date when action could be taken on providing a much needed third local television outlet in Providence. Such delay would, in our opinion, disserve the public interest.

Since the announcement of the engineering curves and standards set out in the Notice of Proposed Rule Making in Docket 13340, further studies disclose the desirability of revising those curves and standards. It is expected that the revisions can be completed and announced by May 1, 1960. In these circumstances we deem it appropriate to extend the date for filing comments in the instant proceeding to June 20, 1960.

Notwithstanding the pendency of the proceeding in Docket 13340 we are unable to discern any persuasive reasons why the new filing dates ordered herein would not afford all parties interested in the proposals for Providence full and fair opportunity to prepare and submit comments in the light of such revised standards and curves.

Petitioner also requested that the date for filing comments in the instant proceeding be postponed until 60 days after final Commission action in Docket 12433. The latter proceeding, which is a hearing on applications for Channel 6 at New Bedford, was commenced prior to the initiation of the instant proceeding on the possible reassignment of Channel 6 from New Bedford to Providence. In these circumstances, we find no justification for postponing the filing of comments herein until after the termination of Docket 12433. Doing so would needlessly and unjustifiably delay our consideration of the merits of the instant proposal as a means of providing a much needed third television station at Providence.

Accordingly, it is ordered, That the last dates for filing comments and reply comments in this proceeding are extended to June 20, 1960, and July 5, 1960, respectively: *And it is further ordered,* That the petition for extension of time filed by Maine Radio and Television Company on March 25, 1960, is granted in part, and is denied insofar as it requests extension of time beyond the foregoing dates.

Released: April 4, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-3193; Filed, Apr. 6, 1960; 8:50 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[1960 Dept. Circular 1039]

4 PERCENT TREASURY NOTES OF SERIES E–1962

Offering of Notes

APRIL 4, 1960.

I. *Offering of notes.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions, at par and accrued interest, from the people of the United States for notes of the United States, designated 4 percent Treasury Notes of Series E–1962. The amount of the offering under this circular is $2,000,000,000, or thereabouts. In addition to the amount offered for public subscription, the Secretary of the Treasury reserves the right to allot up to $100,000,000 of these notes to Government Investment Accounts. The books will be open only on April 4 and April 5 for the receipt of subscriptions for this issue.

II. *Description of notes.* 1. The notes will be dated April 14, 1960, and will bear interest from that date at the rate of 4 percent per annum, payable on a semiannual basis on November 15, 1960, and thereafter on May 15 and November 15 in each year until the principal amount becomes payable. They will mature May 15, 1962, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000, $1,000,000, $100,000,000 and $500,000,000. Provision will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States notes.

III. *Subscription and allotment.* 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit subscriptions for account of customers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies. Others than commercial banks will not be permitted to enter subscriptions except for their own account. Subscriptions from commercial banks for their own account will be received without deposit, but will be restricted in each case to an amount not exceeding 50 percent of the combined capital, surplus and undivided profits, of the subscribing bank. Subscriptions from all others must be accompanied by payment of 2 percent of the amount of notes applied for, not subject to withdrawal until after allotment. Following allotment, any portion of the 2 percent payment in excess of 2 percent of the amount of notes allotted may be released upon the request of the subscribers.

2. All subscribers are required to agree not to purchase or to sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue, until after midnight April 5, 1960.

3. Commercial banks in submitting subscriptions will be required to certify that they have no beneficial interest in any of the subscriptions they enter for the account of their customers, and that their customers have no beneficial interest in the banks' subscriptions for their own account.

4. The Secretary of the Treasury reserves the right to reject or reduce any subscription, to allot less than the amount of notes applied for, and to make different percentage allotments to various classes of subscribers; and any action he may take in these respects shall be final. The basis of the allotment will be publicly announced, and allotment notices will be sent out promptly upon allotment.

IV. *Payment.* 1. Payment at par and accrued interest, if any, for notes allotted hereunder must be made or completed on or before April 14, 1960, or on later allotment. In every case where payment is not so completed, the payment with application up to 2 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depositary will be permitted to make payment by credit in its Treasury Tax and Loan Account for not more than 75 percent of the amount of notes allotted to it for itself and its customers up to any amount for which it shall be qualified in excess of existing deposits when so notified by the Federal Reserve Bank of its District.

V. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for notes allotted, to make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] ROBERT B. ANDERSON,
Secretary of the Treasury.

[F.R. Doc. 60–3181; Filed, Apr. 6, 1960; 8:49 a.m.]

[1960 Dept. Circular 1040]

4¼ PERCENT TREASURY BONDS OF 1975–85

Offering of Bonds

APRIL 4, 1960.

I. *Offering of bonds.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites subscriptions, at par and accrued interest, from the people of the United States for bonds of the United States, designated 4¼ percent Treasury Bonds of 1975–85. The amount of the offering under this circular is up to $1,500,000,000, or thereabouts. In addition to the amount offered for public subscription, the Secretary of the Treasury reserves the right to allot up to $100,000,000 of these bonds to Government Investment Accounts. The books will be open only on April 4 and April 5 for the receipt of subscriptions for this issue.

2. Deferred payment for bonds allotted hereunder may be made as provided in section IV hereof by any of the following subscribers, who for this purpose are defined as savings-type investors:

Pension and Retirement Funds—public and private.
Endowment Funds.
Common Trust Funds under Regulation F of the Board of Governors of the Federal Reserve System.
Insurance Companies.
Mutual Savings Banks.
Fraternal Benefit Associations and Labor Unions' insurance funds.
Savings and Loan Associations.
Credit Unions.
Other Savings Organizations (not including commercial banks).
States, Political Subdivisions or instrumentalities thereof, and Public Funds.

II. *Description of bonds.* 1. The bonds will be dated April 5, 1960, and will bear interest from that date at the rate of 4¼ percent per annum, payable on a semiannual basis on November 15, 1960,

and thereafter on May 15 and November 15 in each year until the principal amount becomes payable. They will mature May 15, 1985, but may be redeemed at the option of the United States on and after May 15, 1975, in whole or in part, at par and accrued interest, on any interest day or days, on 4 months' notice of redemption given in such manner as the Secretary of the Treasury shall prescribe. In case of partial redemption the bonds to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. From the date of redemption designated in any such notice, interest on the bonds called for redemption shall cease.

2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The bonds will be acceptable to secure deposits of public moneys.

4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $500, $1,000, $5,000, $10,000, $100,000 and $1,000,000. Provision will be made for the interchange of bonds of different denominations and of coupon and registered bonds, and for the transfer of registered bonds, under rules and regulations prescribed by the Secretary of the Treasury.

5. Any bonds issued hereunder which upon the death of the owner constitute part of his estate, will be redeemed at the option of the duly constituted representatives of the deceased owner's estate, at par and accrued interest to date of payment,[1] provided:

(a) That the bonds were actually owned by the decedent at the time of his death; and

(b) That the Secretary of the Treasury be authorized to apply the entire proceeds of redemption to the payment of Federal estate taxes.

Registered bonds submitted for redemption hereunder must be duly assigned to "The Secretary of the Treasury for redemption, the proceeds to be paid to the District Director of Internal Revenue at _____ for credit on Federal estate taxes due from estate of _____". Owing to the periodic closing of the transfer books and the impossibility of stopping payment of interest to the registered owner during the closed period, registered bonds received after the closing of the books for payment during such closed period will be paid only at par with a deduction of interest from the sentative, must contain a statement that date of payment to the next interest payment date;[2] bonds received during the closed period for payment at a date after the books reopen will be paid at par plus accrued interest from the reopening of the books to the date of payment. In either case checks for the full six months' interest due on the last day of the closed period will be forwarded to the owner in due course. All bonds submitted must be accompanied by Form PD 1782,[3] properly completed, signed and certified, and by proof of the representatives' authority in the form of a court certificate or a certified copy of the representatives' letters of appointment issued by the court. The certificate, or the certification to the letters, must be under the seal of the court, and except in the case of a corporate repre the appointment is in full force and be dated within six months prior to the submission of the bonds, unless the certificate or letters show that the appointment was made within one year immediately prior to such submission. Upon payment of the bonds appropriate memorandum receipt will be forwarded to the representatives, which will be followed in due course by formal receipt from the District Director of Internal Revenue.

6. The bonds will be subject to the general regulations of the Treasury Department, now or hereafter prescribed, governing United States bonds.

III. *Subscription and allotment.* 1. Subscriptions will be received at the Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit subscriptions for account of customers, but only the Federal Reserve Banks and the Treasury Department are authorized to act as official agencies. Others than commercial banks will not be permitted to enter subscriptions except for their own account. Subscriptions from commercial banks for their own account will be received without deposit but will be restricted in each case to an amount not exceeding 4 percent of the combined amount of time certificates of deposit (but only those issued in the names of individuals, and of corporations, associations, and other organizations not operated for profit), and of savings deposits, or 10 percent of the combined capital, surplus and undivided profits, of the subcribing bank, whichever is greater. Subscriptions from States, political subdivisions or instrumentalities thereof, and public pension and retirement and other public funds also will be received without deposit. Subscriptions from all others must be accompanied by payment of 20 percent of the amount of bonds applied for, not subject to withdrawal until after allotment; provided, however, that all subscriptions up to a maximum of $25,000 will be allotted in full if accompanied by 100 percent payment at the time of entering the subscription. All payments accompanying subscriptions must be made to a Federal Reserve Bank or Branch or to the Treasurer of the United States in immediately available funds or by credit in a Treasury Tax and Loan Account. Following allotment, any portion of the 20 percent payment in excess of 20 percent of the amount of bonds allotted may be released upon the request of the subscribers.

2. All subscribers are required to agree not to purchase or to sell, or to make any agreements with respect to the purchase or sale or other disposition of any bonds of this issue, until after midnight April 5, 1960.

3. Commercial banks in submitting subscriptions will be required to certify that they have no beneficial interest in any of the subscriptions they enter for the account of their customers, and that their customers have no beneficial interest in the banks' subscriptions for their own account.

4. The Secretary of the Treasury reserves the right to reject or reduce any subscription, to allot less than the amount of bonds applied for, and to make different percentage allotments to various classes of subscribers; and any action he may take in these respects shall be final. The basis of the allotment will be publicly announced, and allotment notices will be sent out promptly upon allotment.

IV. *Payment.* 1. Payment at par and accrued interest for bonds allotted hereunder must be made or completed on or before April 14, 1960; provided, however, that where a subscriber eligible to defer payment under Section I hereof elects to defer payment for part of the bonds allotted, not less than 40 percent of the bonds allotted must have been paid for by April 14, 1960, not less than 70 percent must have been paid for by May 15, 1960, and full payment must be completed by June 15, 1960. All payments made subsequent to April 5, 1960, must be accompanied by accrued interest from that date, at the rate of $0.12 per $1,000 per day. In the event allotments are at a rate which exceeds 20 percent of the amount subscribed for, payment at par and accrued interest in the amount of $0.12 per $1,000 per day for the bonds allotted hereunder, less an adjustment for the amount of the deposit, and accrued interest thereon in the amount of $0.12 per $1,000 per day must be completed on April 14, 1960, or on later allotment. In the event allotments are less than a rate of 20 percent of the amount subscribed for, the amount of the deposit in excess of the par amount of the bonds allotted hereunder will be returned to the subscribers. In no event will bonds allotted be delivered prior to April 14, 1960. Where partial payment for bonds allotted is to be deferred beyond April 14, 1960, delivery of 5 percent of the total par amount of bonds allotted, adjusted to the next higher $500, will be withheld from all subscribers (except States, political subdivisions

[1] An exact half-year's interest is computed for each full half-year period irrespective of the actual number of days in the half year. For a fractional part of any half year, computation is on the basis of the actual number of days in such half year.

[2] The transfer books are closed from April 16 to May 15, and from October 16 to November 15 (both dates inclusive) in each year.

[3] Copies of Form PD 1782 may be obtained from any Federal Reserve Bank or from the Treasury Department, Washington 25, D.C.

or instrumentalities thereof, and public pension and retirement and other public funds) until payment for the total amount allotted has been completed. In every case where payment is not so completed the 5 percent so withheld shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. In all other cases where payment is not completed on or before April 14, 1960, or on later allotment, the payment with application up to 20 percent of the amount of bonds allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depositary will be permitted to make payment by credit in its Treasury Tax and Loan Account for bonds allotted to it for itself and its customers up to any amount for which it shall be qualified in excess of existing deposits when so notified by the Federal Reserve Bank of its District.

V. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotment on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for bonds allotted, to make delivery of bonds on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] ROBERT B. ANDERSON,
Secretary of the Treasury.

[F.R. Doc. 60-3182; Filed, Apr. 6, 1960; 8:49 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

COLORADO

Notice of Proposed Withdrawal and Reservation of Lands

MARCH 30, 1960.

The United States Forest Service of the Department of Agriculture has filed an application, Serial Number Colorado 033334, for the withdrawal of the lands described below from location and entry under the General Mining Laws, subject to existing valid claims.

The applicant desires the land for use as campgrounds, picnic ground, recreation area and administrative site addition located in the Arapaho, Gunnison, San Isabel and San Juan National Forests.

For a period of thirty days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Colorado State Office, 339 New Custom House, P.O. Box 1018, Denver 1, Colorado.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

SIXTH PRINCIPAL MERIDIAN, COLORADO

ARAPAHO NATIONAL FOREST

Strawberry Campground (Proposed)

T. 2 N., R. 75 W.,
Sec. 32, lots 5 and 6 and SW¼SE¼.

Ruby Campground

T. 7 S., R. 78 W.,
Sec. 36, N½NE¼ (except the patented Ruby Placer No. 17193);
Sec. 25, S½SE¼ (except the patented Leap Year et al. Placer No. 13358).

Horseshoe Campground

T. 2 S., R. 78 W.—Unsurveyed,
Beginning at corner No. 1, from which the section corner common to sections 13, 14, 23 and 24, T. 2 S., R. 78 W., 6th P.M., Colorado, bears S. 17°30' E., 11,400 ft.
From corner No. 1, by metes and bounds,
N. 78° W., 400 ft., to corner No. 2;
N. 25° W., 240 ft., to corner No. 3;
S. 85° E., 500 ft., to corner No. 4;
S. 1° W., 251 ft., to corner No. 1, the place of beginning.
The tract as described contains 2.53 acres.

Trestle Campground

T. 2 S., R. 74 W.—Unsurveyed,
A tract of land in approximately the SW¼ of section 5; beginning at corner No. 1, from which the southeast corner of sec. 36, T. 1 S., R. 75 W., 6th P.M., Colorado, bears N. 55° W., 70 chs.
From corner No. 1, by metes and bounds.
East, 32 chs., to corner No. 2;
South, 20 chs., to corner No. 3;
West, 32 chs., to corner No. 4;
North, 20 chs., to corner No. 1, the place of beginning.
The tract as described contains 64 acres.
The above described areas in Arapaho National Forest aggregate 255.15 acres.

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

GUNNISON NATIONAL FOREST

Pitkin Recreation Area

T. 50 N., R. 4 E.,
Sec. 10, lots 1, 2, 5 and 6;
Secs. 10 and 11, tract 37, All.

SIXTH PRINCIPAL MERIDIAN, COLORADO

Cement Creek Administrative Site (Addition)

T. 14 S., R. 85 W.,
Sec. 23, NW¼NW¼SE¼.
The above described areas in Gunnison National Forest aggregate 206.61 acres.

SIXTH PRINCIPAL MERIDIAN, COLORADO

SAN ISABEL NATIONAL FOREST

Bassam Park Organization Camp

T. 15 S., R. 77 W.,
Sec. 24, NW¼NW¼, W½NE¼NW¼, NW¼SE¼NW¼ and N½SW¼NW¼.
The above described area in San Isabel National Forest aggregates 90 acres.

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

SAN JUAN NATIONAL FOREST

Junction Creek Picnic Ground

T. 36 N., R. 10 W.,
Sec. 35, S½NE¼NE¼ and SE¼NE¼.

Thompson Park Campground

T. 36 N., R. 12 W.,
Sec. 28, S½SW¼SW¼;
Sec. 29, SE¼SE¼SE¼;
Sec. 32, E½NE¼NE¼;
Sec. 33, NW¼NW¼.

East Fork Campground

T. 36 N., R. 1 E.,
Sec. 7, E½ of lot 1 and E½ of lot 2.

Cimarron Campground

T. 38 N., R. 3 W.,
Sec. 8, E½SW¼ and W½SE¼.

First Fork Campground

T. 36 N., R. 4 W.,
Sec. 28, SE¼SW¼ and W½SW¼SE¼;
Sec. 33, N½NE¼NW¼ and NW¼NW¼NE¼.

Little Brook Campground

T. 38 N., R. 3 W.,
Sec. 7, SE¼SE¼;
Sec. 8, SW¼SW¼;
Sec. 17, NW¼NW¼;
Sec. 18, NE¼NE¼.

The above described areas in San Juan National Forest aggregate 602.36 acres.

The above described areas in Arapaho, Gunnison, San Isabel and San Juan National Forests aggregate approximately 1,154.12 acres.

J. ELLIOTT HALL,
Lands and Minerals Officer.

[F.R. Doc. 60-3165; Filed, Apr. 6, 1960; 8:47 a.m.]

[Buffalo 034883, et al.]

WYOMING

Order Providing for Opening of Public Lands

MARCH 31, 1960.

1. In exchanges of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended June 26, 1936 (49 Stat. 1976) the following described lands have been reconveyed to the United States under the application numbers indicated:

SIXTH PRINCIPAL MERIDIAN, WYOMING

BUFFALO 034883

T. 54 N., R. 97 W.,
Lot 60, All (Original Sec. 36).

BUFFALO 035713

T. 50 N., R. 92 W.,
Sec. 16, N½.
T. 49 N., R. 94 W.,
Sec. 16, S½.
T. 57 N., R. 94 W.,
Sec. 16, N½NE¼, SE¼NE¼.

BUFFALO 035934

T. 18 N., R. 99 W.,
Sec. 36, E½.

BUFFALO 035977

T. 48 N., R. 88 W.,
Tract 46 (Originally SE¼SW¼ Sec. 28).
T. 46 N., R. 89 W.,
Tract 39 (Originally Sec. 16).
T. 48 N., R. 90 W.,
Sec. 6, Lots 2, 3, S½NE¼.
T. 45 N., R. 92 W.,
Sec. 36, All.
T. 57 N., R. 94 W.,
Sec. 16, NE¼, NE¼NW¼.
T. 56 N., R. 95 W.,
Lot 37, N½ (Originally N½ Sec. 36).
T. 56 N., R. 98 W.,
Lot 45, N½, SW¼ (Originally N½, SW¼ Sec. 16).

T. 54 N., R. 99 W.,
Lot 39, SE¼SE¼ (Originally SE¼SE¼ Sec. 16).

CHEYENNE 062660

T. 56 N., R. 98 W.,
Lot 45, SE¼ (Originally SE¼ Sec. 16).

CHEYENNE 072005

T. 56 N., R. 87 W.,
Sec. 36, All.
T. 29 N., R. 112 W.,
Sec. 36, All.
T. 27 N., R. 112 W.,
Sec. 36, SW¼SE¼, E½SE¼.
T. 30 N., R. 112 W.,
Sec. 10, N½NW¼.
T. 50 N., R. 64 W.,
Sec. 6, SE¼.

EVANSTON 022738

T. 28 N., R. 112 W.,
Sec. 11, SW¼SW¼;
Sec. 14, W½NW¼;
Sec. 15, N½N½.

WYOMING 023685

T. 35 N., R. 111 W.,
Sec. 4, SW¼SW¼.

WYOMING 032608

T. 21 N., R. 119 W.,
Sec. 4, SW¼.

WYOMING 058207

T. 32 N., R. 98 W.,
Sec. 19, S½SE¼.

containing approximately 6600 acres of public land.

2. Minerals in the above described lands have been reserved by the grantors, except that in W–023685, W–032608, and W–058207, both leasable and locatable minerals are vested in the United States, and have been open to mineral leasing and mining location at all times.

3. The lands are widely scattered throughout Wyoming. Topography ranges from moderately rolling to rough and mountainous. The lands are mostly arid. Vegetation consists generally of sagebrush, saltbrush, and other low-growing shrubs and grasses at the lower elevations, and perennial grasses and browse plants at the higher elevations. The lands have some value for grazing by range livestock, but in general are unsuitable for cultivation or other higher forms of use.

4. No application for these lands will be allowed under the homestead, desert land, small tract or any other non-mineral public land law, unless the lands have already been classified as valuable, or suitable for such type of application, or shall be so classified upon consideration of an application. Any application which is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

5. Subject to any existing valid rights and the requirements of applicable laws, the lands described in paragraph 1 are hereby opened to filing of applications and selections in accordance with the following:

(a) Applications and selections under the non-mineral public land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications and selections under the non-mineral public land laws, other than those coming under paragraph (1) above presented prior to 10:00 a.m. on May 6, 1960, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

6. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

7. The lands described below are restored to the extent they were not heretofore subject to application and selection by reason of reconveyance to the United States, but they remain subject to other withdrawals pursuant to the authorities cited:

SIXTH PRINCIPAL MERIDIAN, WYOMING

BUFFALO 035713

T. 49 N., R. 93 W.,
Sec. 36, NW¼NW¼.

The above is included in First Form Reclamation Withdrawal under the Act of June 17, 1902 (32 Stat. 388) for the Missouri Basin Project, Bighorn Unit No. 3.

T. 57 N., R. 96 W.,
Sec. 16, SW¼NW¼, N½S½.

The above is included in First Form Reclamation Withdrawal under the Act of June 17, 1902 (32 Stat. 388) for the Shoshone Project. The above is also a part of Petroleum Reserve No. 8, pursuant to E.O. of July 2, 1910, and N½SW¼ conveyed to Town of Lovell, Wyoming pursuant to section 16 of the Act of June 13, 1946.

BUFFALO 035977

T. 57 N., R. 94 W.,
Sec. 16, Lots 1, 2, 4, 5, 6, NW¼NW¼, SE¼NW¼, N½SE¼.

The above is withdrawn for Powersite Classification No. 345, pursuant to Departmental Order, approved July 31, 1944.

7. Inquiries concerning these lands shall be addressed to the Manager, Land Office, Bureau of Land Management, P.O. Box 929, Cheyenne, Wyoming.

EUGENE L. SCHMIDT,
Lands and Minerals Officer.

[F.R. Doc. 60–3166; Filed, Apr. 6, 1960; 8:47 a.m.]

[Classification 13]

[B–24812]

COLORADO

Small Tract Classification, Amendment; Small Tract Opening

1. Pursuant to the authority delegated to me by the Colorado State Supervisor, Bureau of Land Management, effective February 19, 1958, 23 FR 1098, it is ordered as follows:

2. Effective immediately, paragraphs 2 through 13 of Federal Register Document 55–1116, appearing in the issue of February 8, 1955, at pages 811–812; paragraphs 1, 2, 3, and 4 of Federal Register Document 58–10422, appearing in the issue of December 18, 1958, at page 9764; and paragraphs 1, 2, 3, and 4 of Federal Register Document 60–225, appearing in the issue of January 12, 1960, at page 223 are hereby revoked as to the lots described in paragraph 3 below and paragraphs 3 through 9 of this order are substituted therefor.

3. These lots were classified for residence and business site purposes under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 USC Sec. 682a) by Small Tract Classification Order No. 13, appearing as Federal Register Document 55–1116 in the issue of February 8, 1958, at pages 811–812.

UTE MERIDIAN, COLORADO

T. 2 S., R. 1 E.,
Sec. 4, lots 5, 8, 15, 16, 18, 21, 22, 24, 27, 28, 31, 33, 34, 35, 36, 38, 39, 40, 41, 43 and 45, containing 33.80 acres subdivided into 21 small tracts. None of these lots are covered by applications from persons entitled to preference under 43 CFR 257.5.

These lots are now subject to application under the Small Tract Act but applications must be filed in the manner described in paragraph 8 below.

4. These lots are about six miles southeast of Grand Junction, Colorado. The estimated population of Grand Junction is 20,000.

U.S. Highway 50 between Grand Junction and Delta, Colorado crosses the area from northwest to southeast. Several of the lots front on U.S. Highway 50. Most of the lots are rectangular in shape. Rights-of-way have been reserved along the boundaries of designated lots to provide public access to all of the lots. Road building will be necessary to provide vehicle access to some of the lots.

The topography varies from level to rather low, moderately steep ridges. Each of the lots is considered to have a desirable building site although varying amounts of excavation and levelling may be necessary to develop individual lots. Development of culinary water may be difficult and expensive. An electric power line crosses the area. Other utilities and services such as stores, schools, churches and recreational facilities are available in Grand Junction. The tracts are suitable for year-round use. The generally shallow, rocky soil together with the very low annual precipitation of less than 9 inches, supports only very small desert shrubs, grasses and weeds.

The lots being offered in this drawing were surveyed by the Bureau of Land Management in 1953 and each corner of each lot was marked with a 2" x 4" wooden stake set in the ground. A few of these stakes have disappeared and the identifying marks on those remaining have been obliterated by weather. Permanent brass cap survey monuments are still in place along the boundaries of the small tract area. An official copy of the plat of survey modified to show the location and markings of these permanent corners is available upon request.

5. The appraised value of the lots varies from $300 to $600 each as shown below. Lease and sale of lots will be made subject to rights-of-way of record and to rights-of-way for street and road purposes and for public utilities under Title 43 Code of Federal Regulations Part 257.17b as shown below. All minerals in the lands will be reserved to the United States.

RIGHTS-OF-WAY RESERVED UNDER 43 CFR 257.17(b)

30' in width along the north boundary of lots—	30' in width along the south boundary of lots—	30' in width along the west boundary of lots—	30' in width along the east boundary of lot—
5, 8, 21, 22, 31, 33, 34, 35, 36, 38, 39, 40, 41, 43, and 45	5, 8, 15, 16, 18, 27, 28, 31, 33, 34, 35, and 36	8 and 45	31

UTE MERIDIAN, COLORADO

Legal description by lot No.—	Acreage	Advanced rental for 3-year lease period for residence site	Purchase price
T. 2 S., R. 1 E., Sec. 4, Lot:			
5	2.54	$75.00	$500
8	2.12	45.00	300
15	1.24	60.00	400
16	1.08	60.00	400
18	2.17	52.50	350
21	1.23	82.50	550
22	1.80	82.50	550
24	1.83	90.00	600
27	1.25	90.00	600
28	1.25	90.00	600
31	1.24	75.00	500
33	1.24	75.00	500
34	1.24	60.00	400
35	1.24	75.00	500
36	1.24	60.00	400
38	2.48	45.00	300
39	1.24	52.50	350
40	1.24	52.50	350
41	1.24	52.50	350
43	1.24	52.50	350
45	3.65	82.50	550

Leases will be issued for a term of three years and will contain an option to purchase in accordance with 43 CFR 257.13. Lessees who comply with the general terms and conditions of their leases will be permitted to purchase their tracts at the prices listed above providing that during the period of their leases they construct the improvements specified in Paragraph 7. Leases will be renewable at the discretion of the Bureau of Land Management and the renewal lease will be subject to such terms and conditions as are deemed necessary in the light of the circumstances and the regulations existing at the time of renewal. However, a lease will not be renewable unless failure to construct required improvements is justified under the circumstances and nonrenewal would work an extreme hardship on the lessee. The purchase price and annual rental of the lots listed above are subject to revision without further publication in the FEDERAL REGISTER for those lots not leased as a result of the drawing held pursuant to this opening order.

6. Persons who have previously acquired a tract under the Small Tract Act are not qualified to acquire a tract at this drawing.

7. The improvements referred to in paragraph 5 must conform with health, sanitation, and construction requirements of local ordinances and must, in addition, meet the following standards:

(a) Buildings on these tracts shall be constructed of new and substantial materials set on adequate foundations of cement, rocks, cinderblocks or similar materials. Chimneys must be of cement, stone, brick, masonry, or of an approved metal type and shall be lined with fire resistant brick or tile except where approved metal types are used.

(b) No shacks of temporary and unsightly nature will be allowed. The use of tar or composition papers for general exterior purposes will not be permitted. Trailers or portable types of houses will not be considered as being part or all of the development requirements. Trailers may be used for temporary housing during the construction of permanent improvements; however, they will not be considered as part of the improvements required under the lease and must be removed before favorable action will be taken on an application to purchase.

(c) Each lessee will be required to keep the premises in a neat and orderly condition. Garbage and other refuse must be disposed of by burning in an incinerator or be removed at regular intervals in accordance with local standards and practices. Disposal of garbage or other refuse on areas included in rights-of-way of record or rights-of-way reserved for roads and public utilities is prohibited.

(d) Only one residence building will be permitted per lot. Buildings other than the residence shall be kept to a minimum.

(e) All residential buildings shall have not less than 600 square feet of floor space.

(f) All Bureau of Land Management regulations and State laws as to fire prevention must be observed. Premises and improvements must be maintained in a fire-safe condition at all times. Each lessee will be required to take all reasonable precautions to prevent and suppress grass fires. Debris and inflammable material will be removed or burned in such a manner that adjoining properties as well as their own will not be endangered.

(g) Buildings or other improvements on the lots shall be set back a minimum distance of 15 feet from outside boundaries of rights-of-way of record and rights-of-way reserved for roads and public utilities.

(h) No buildings shall be constructed on areas reserved for rights-of-way for roads and public utilities.

(i) All residence and business sites must have adequate sanitary facilities to conform with state, county, and local laws and ordinances. Outside toilets must be located a minimum of 30 feet from the building or dwelling. The toilets must be fully enclosed and of substantial construction and contain a pit and cover for the seat. The depth of the pit shall not be less than six feet below ground level. In the case of inside toilets, disposal of waste shall be by means of septic tanks or cesspools.

(j) Removal of Bureau of Land Management monumented survey corners which are steel pipe with brass caps, or wooden posts, set along the boundaries of the lots, is prohibited. If their presence interferes with construction of roads, the monument shall be buried in place and the State Supervisor, Bureau of Land Management, P.O. Box 1018, 339 New Custom House, Denver 1, Colorado, notified in writing.

(k) Electrical and telephone line poles must be placed within the right-of-way areas reserved for roads and public utilities and set not further than five feet from the exterior boundaries of the rights-of-way.

(l) The lesee must show his last name and the number of his lot on a sign and post it in a conspicuous place on the lot throughout the lease period.

(m) Buildings or other improvements on the lots adjoining U.S. Highway No. 50, shall be set back a minimum distance of 50 feet from the highway right-of-way. Buildings on all of the lots shall be set back a minimum of 10 feet from side and end property lines.

(n) The types of businesses permitted on these tracts will be in accordance with county and state laws.

(o) Road approaches to the tracts from United States Highway No. 50 must be in accordance with the regulations and standards of the Colorado State Highway Department.

8. A drawing or drawings will be held at 2:00 p.m. on May 19, 1960, or shortly thereafter. To participate in these drawings, applicants must comply with the following instructions. Applications must be made, in duplicate, on Form 4–776, accurately and completely filled out in accordance with the instructions on the form except that Item 4(a) and 4(d) need not be filled out. The application must be accompanied by a bank draft, certified check, or post office money order made payable to the Bureau of Land Management in an amount equal to $10 plus the advance rental for the desired tract as specified in Paragraph 5 above. The application forms and payment must be enclosed in a sealed, self-addressed, stamped (4 cents in stamps), return envelope for return to the applicant in the form received if he is not successful in the drawing. This envelope must be enclosed in another sealed envelope and mailed to the Manager, Land Office, 371 New Custom House, P.O. Box 1018, Denver 1, Colorado. This envelope (used to mail the envelope containing the forms and money) must carry in the lower left-hand corner of its face the following information and nothing else: (a),

"Small Tract Application"; (b) "Classification Order No. 13"; (c) a description of the tract applied for, described in accordance with paragraph 5 above. Application forms are available upon request from the above-named official. Requests for forms should be accompanied by a stamped (4 cents in stamps), self-addressed, return envelope to facilitate mailing of the forms.

Envelopes will be accepted for the drawing if submitted in compliance with the above instructions and filed with the Land Office Manager, 371 New Custom House, Box 1018, Denver 1, Colo, by 10:00 a.m. on May 17, 1960. Any person who submits more than one set of applications will be declared ineligible to participate in the drawing. All entrants will be notified of the results of this drawing either by receipt of a copy of a lease or the return of their applications and remittance.

Any tracts remaining unleased after the drawing will be open to the filing of applications on a first come, first served basis beginning at 10:00 a.m. on May 31, 1960. All persons are advised that the $10 service fee will be retained by the Government in connection with all applications filed after 10:00 a.m. on May 31, 1960.

9. Inquiries concerning these lands shall be addressed to the Manager, Land Office, 371 New Custom House Building, P.O. Box 1018, Denver 1, Colo.

J. ELLIOTT HALL,
Lands and Minerals Officer.

MARCH 30, 1960.

[F.R. Doc. 60-3167; Filed, Apr. 6, 1960; 8:47 a.m.]

[Classification 88]

ALASKA

Small Tract Classification; Amendment No. 3

MARCH 31, 1960.

Effective May 4, 1960, Federal Register Document 59-5164 appearing in the issue for June 23, 1959, which amended Federal Register Document 54-7580 appearing in the issue for September 28, 1954, is hereby amended as follows:

1. Paragraph 1 containing the description of the land classified by the order is hereby amended to delete the following described parcel of land for the reason that the land was subject to a valid prior claim and was not available for classification by the subject action:

T. 17 N., R. 4 W., S.M.,
Sec. 28; Lot 13.

Containing 5.80 acres.

2. Paragraph 2, of said order, is hereby corrected to specify that the prior claim of Anchorage 025284 (Betty King) applied to Lot 13, T. 17 N., R. 4 W., S.M., and not to the S½ of Lot 19 as stated in said order.

3. Paragraph 2, of said order, is hereby enlarged to include the prior claim of Anchorage 031712 (Seventh Day Adventists to Lot 19, Section 28, T. 17 N., R. 4 W., S.M., containing 9.48 acres.

4. Paragraph 3, of said order, is hereby amended to specify all of Lot 19 of Section 28, T. 17 N., R. 4 W., S.M., containing 9.48 acres rather than the N½ of the lot as stated.

L. T. MAIN,
Operations Supervisor.

[F.R. Doc. 60-3183; Filed, Apr. 6, 1960; 8:49 a.m.]

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

MARCH 30, 1960.

The Federal Aviation Agency has filed an application, Serial Number 050312 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, but excepting the disposal of timber and the disposal of materials under the Materials Act. The applicant desires the land for use as a Remote Receiver Site.

For a period of 60 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objection in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Anchorage Operations Office, Cordova Building, Anchorage, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

T. 13 N., R. 4 W., S.M.,
Sec. 28: W½;
Sec. 29: Lots 1, 2, 3, SE¼NE¼, E½SE¼, SW¼SE¼.

Containing 592.87 acres.

L. T. MAIN,
Operations Supervisor.

[F.R. Doc. 60-3184; Filed, Apr. 6, 1960; 8:49 a.m.]

Southwestern Power Administration

CHIEF, DIVISION OF RATES AND CUSTOMER SERVICE

Delegation of Authority Concerning Marketing of Electric Power and Energy

The following material is a portion of the Administration's General Order Manual and the numbering system is that of the Manual.

SPA GENERAL ORDER No. 194

SECTION 1. *Revocation.* SPA General Order No. 113-A (19 F.R. 6954), is hereby revoked.

SEC. 2. *Delegation of authority.* Pursuant to the provisions of 200 DM 3.2 (25 F.R. 325), the Chief, Division of Rates and Customer Service may, subject to the applicable provisions of the act of December 22, 1944, exercise the authority delegated by the Secretary of the Interior to the Administrator, Southwestern Power Administration, under 270 DM 2.2 (25 F.R. 2244), to enter into contracts for the sale or interchange of electric power and energy.

SEC. 3. *Limitation.* The authority granted in section 2 above may not be redelegated.

DOUGLAS G. WRIGHT,
Administrator.

MARCH 30, 1960.

[F.R. Doc. 60-3169; Filed, Apr. 6, 1960; 8:47 a.m.]

Oil Import Administration

CRUDE OIL, UNFINISHED OILS, FINISHED PRODUCTS

Applications for Allocations

Pursuant to section 5 of Oil Import Regulation 1 [Revision 1] as amended (24 F.R. 4654, 6759, 10075), the following forms for filing applications for allocations for the allocation period July 1, 1960 through December 31, 1960, may now be obtained from the Oil Import Administration, Department of the Interior, Washington 25, D.C.

1. Application for Crude and Unfinished Oils Import Allocation Districts I–IV;
2. Application for Crude and Unfinished Oils Import Allocation District V;
3. Application for Crude and Unfinished Oils Import Allocation Puerto Rico;
4. Application for Finished Petroleum Products Import Allocation Districts I–IV;
5. Application for Finished Petroleum Products Import Allocation District V;
6. Application for Finished Petroleum Products Import Allocation Puerto Rico;
7. Application for a Residual Fuel Oil Import Allocation Districts I–IV;
8. Application for a Residual Fuel Oil Import Allocation Puerto Rico.

As a service, copies of the forms will be mailed to present holders of import licenses. However, all applicants are notified that this is merely a service and that their failure to receive copies of the forms through the mail will in no way excuse them from complying with the provisions of section 5 of Oil Import Regulation [Revision 1] that all applications must be filed with the Administrator, not later than 60 calendar days (May 2, 1960) prior to the beginning of the allocation period.

No form is prescribed for applications for residual fuel oil import allocations for District V. Eligible persons desiring such allocations may obtain same by applying in writing to the Administrator.

T. C. SNEDEKER,
Acting Administrator, Oil Import Administration.

APRIL 1, 1960.

[F.R. Doc. 60-3168; Filed, Apr. 6, 1960; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

UNION LIVE STOCK YARDS, INC.

Deposting of Stockyard

It has been ascertained that the Union Live Stock Yards, Inc., originally posted on February 22, 1929, as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer comes within the definition of a stockyard under said act for the reason that it is no longer being conducted or operated as a public market. Accordingly, notice is given to the owners thereof and to the public that such livestock market is no longer subject to the provisions of the act. The owners of this market have built new facilities at another location in Knoxville, Tennessee, and notice of proposed posting of the new market will be issued.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not desposting promptly a stockyard which is no longer within the definition of that term contained in said act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER.

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 1st day of April, 1960.

DONALD L. BOWMAN,
Chief, Packers and Stockyards Branch, Livestock Division, Agricultural Marketing Service.

[F.R. Doc. 60-3175; Filed, Apr. 6, 1960; 8:48 a.m.]

Office of the Secretary

NORTH DAKOTA

Designation of Area for Production Emergency Loans

For the purpose of making production emergency loans pursuant to section 2(a) of Public Law 38, 81st Congress (12 U.S.C. 1148a-2(a)), as amended, it has been determined that in Mountrail County, North Dakota, a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

Pursuant to the authority set forth above, production emergency loans will not be made in the above-named county after June 30, 1960, except to applicants who previously received such assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 1st day of April, 1960.

TRUE D. MORSE,
Acting Secretary.

[F.R. Doc. 60-3176; Filed, Apr. 6, 1960; 8:48 a.m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

[Docket No. 889]

UNAPPROVED SECTION 15 AGREEMENT—NORTH ATLANTIC/BALTIC TRADE

Notice of Supplemental Order

On March 21, 1960, the Federal Maritime Board entered the following order supplementing its previous order in this proceeding dated January 15, 1960, appearing in the FEDERAL REGISTER of January 27, 1960 (25 F.R. 687):

It appearing that on January 15, 1960, the Federal Maritime Board entered an order instituting an investigation into whether an agreement within the contemplation of Section 15 of the Shipping Act, 1916, was entered into and carried out without prior approval of the Board during 1958 or prior thereto by Moore-McCormack Lines and Swedish American Lines affecting westbound trade from Gothenburg, Sweden, to the United States North Atlantic Coast; and

It further appearing that the issues in such investigation are closely related to the question whether Agreement No. 7549, as amended, is and has been lawfully carried out by the parties thereto consistently with its terms as approved by the Federal Maritime Board;

Now, therefore, it is ordered, That this proceeding be and it is hereby broadened to determine, in addition to the issues stated in the aforementioned order in this proceeding entered January 15, 1960, (1) whether Agreement No. 7549, as amended, has been lawfully carried out in a fashion consistent with the terms of said Agreement No. 7549, as heretofore approved by the Federal Maritime Board; and (2) whether Agreement No. 7549 should not be disapproved; and

It is further ordered, That the Swedish America Mexico Line and Transatlantic Steamship Co., Ltd., be, and they are hereby made, respondents in this proceeding; and

It is further ordered, That a copy of the order of January 15, 1960, and of this order be served upon Swedish America Mexico Line and Transatlantic Steamship Co., Ltd., and that a copy of this supplemental order be served on Moore-McCormack Lines and Swedish American Lines, and that a copy of this order be published in the FEDERAL REGISTER.

Dated: April 4, 1960.

By order of the Federal Maritime Board.

JAMES L. PIMPER,
Secretary.

[F.R. Doc. 60-3177; Filed, Apr. 6, 1960; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 13062; FCC 60M578]

CHE BROADCASTING CO. (NSL)

Memorandum Opinion and Order Continuing Hearing

1. In re application of CHE Broadcasting Company (NSL), Albuquerque, New Mexico, Docket No. 13062, File No. BP-11842; for construction permit.

2. Apparently because applicant has been proceeding without counsel, there has been unnecessary delay in this case. By Memorandum Opinion and Order released February 17, 1960, the Hearing Examiner continued the hearing to March 31, 1960, to give applicant ample time to prepare (hearing had been originally set for October 13, 1959). It was there said "that the Hearing Examiner expects this case to be heard on" March 31. It seems, however, that applicant is still not ready. Ordinarily there would be no further continuance, but under the circumstances another, and it is hoped final, continuance will be allowed. The Broadcast Bureau has no objection.

3. Accordingly: *It is ordered,* This 31st day of March 1960, that the hearing is continued from March 31 to Thursday, May 12, 1960, at 10 a.m., in the offices of the Commission, Washington, D.C.

Released: April 1, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-3185; Filed, Apr. 6, 1960; 8:50 a.m.]

[Docket No. 13433; FCC 60M-584]

MARTIN HUMPHRIES

Order Scheduling Hearing

In the matter of Martin Humphries, 2720 Atkinson Avenue, Youngstown 5, Ohio, Docket No. 13433; order to show cause why there should not be revoked the license for Citizens Radio Station 19W4436.

It is ordered, This 1st day of April 1960, that Elizabeth C. Smith will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 6, 1960, in Washington, D.C.

Released: April 1, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60-3186; Filed, Apr. 6, 1960; 8:50 a.m.]

[Docket No. 13441; FCC 60M-585]

JOSEPH L. MENARD

Order Scheduling Hearing

In the matter of Joseph L. Menard, Box 101, Patterson, Louisiana, Docket No. 13441; order to show cause why there

should not be revoked the license for radio station WC–5307 aboard the vessel "El Rancho."

It is ordered, This 1st day of April 1960, that Forest L. McClenning will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 6, 1960, in Washington, D.C.

Released: April 1, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60–3187; Filed, Apr. 6, 1960; 8:50 a.m.]

[Docket No. 13373; FCC 60M–588]

MORROW RADIO MANUFACTURING CO. AND RAY E. MORROW

Order Continuing Hearing

In the matter of Morrow Radio Manufacturing Co., Salem, Oregon, and Ray E. Morrow, Salem, Oregon, Docket No. 13373; order to show cause why there should not be revoked the licenses for citizens radio stations 13W0470 and 13W0089 and why a cease and desist order should not be issued.

The Hearing Examiner having under consideration a petition for continuance of the hearing in the above-entitled proceeding by counsel for the respondent licensees, filed March 30, 1960, in which a continuance from April 7, 1960, to May 9, 1960 is requested;

It appearing that at a prehearing conference held on March 11, 1960 it was agreed, the Hearing Examiner approving, that on or before April 4, 1960 the respondents were to furnish a copy of an affidavit or affidavits they then planned to offer into evidence at the hearing in regard to the cessation by the respondents of acts charged against them in the Show Cause Order and that such affidavit or affidavits would be presented in evidence on the scheduled April 7 date for commencement of the hearing, with the understanding that if the respondents considered they were in need of a continuance of the hearing thereafter or of additional hearing dates in order to enable them to present other evidence they were to take the necessary procedural steps to accomplish this objective as soon as practicable prior to April 7 (see Order of the Hearing Examiner released March 14, 1960, FCC 60M–476);

It appearing further that the present petition, which was timely filed in accordance with the agreement reached at the prehearing conference, contains a supporting affidavit by Ray E. Morrow, one of the respondents, in his own behalf and in behalf of Morrow Radio Manufacturing Co., which declares, among other things, that the respondents "are not now doing and will not in the future do any of the acts stated in the order to show cause which are alleged to be willful violations of section 10(b) (sic) of the Communications Act of 1934, as amended";

It appearing further that the petitioners aver that they have been unable to adequately prepare for a hearing on April 7th and that they propose, in lieu of an oral hearing, to proceed by detailed written statement under oath and that for the purpose of obtaining such a statement and in order to complete their investigation the additional time requested is necessary;

It appearing further that as above indicated, the ends of justice will best be served by affording the respondents every reasonable opportunity to meet the charges in the Show Cause Order, that a sufficient showing of good cause has been made to justify the relief requested, and that the counsel for the Commission's Safety and Special Radio Services Bureau has no objection to favorable action on the petition;

It appearing further that May 6, 1960, will conform better to the Hearing Examiner's schedule than the May 9th date requested;

It is ordered, This 1st day of April 1960, that the petition filed March 30, 1960 by respondents' counsel is hereby granted to the extent that the hearing in the above-entitled proceeding is continued from April 7, 1960 until 10:00 a.m., May 6, 1960, at the offices of the Commission, Washington, D.C.;

It is ordered further, On the Hearing Examiner's own motion, That the parties shall exchange with each other, with copies to the Hearing Examiner, copies of any documentary or written evidence they intend to offer at the hearing not later than May 2, 1960.

Released: April 4, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60–3188, Filed, Apr. 6, 1960; 8:50 a.m.]

[Docket Nos. 13155–13159; FCC 60M–586]

WACO RADIO CO. ET AL.

Order Continuing Hearing

In re applications of Jacob A. Newborn, Jr., Trustee for Nancy and Nena Newborn, tr/as Waco Radio Company, Waco, Texas, Docket No. 13155, File No. BP–9763; Hugh M. McBeath, Waco, Texas, Docket No. 13156, File No. BP–10001; Floyd Bell, Texarkana, Texas, Docket No. 13157, File No. BP–11870; Radio Broadcasters, Inc., Waco, Texas, Docket No. 13158, File No. BP–12465; Belton Broadcasters, Inc., Belton, Texas, Docket No. 13159, File No. BP–12934; for construction permits.

The Hearing Examiner having under consideration a joint petition filed March 30, 1960, on behalf of Waco Radio Company and Radio Broadcasters, Inc.,[1] requesting that the dates for certain procedural steps be extended as hereinafter ordered; and

It appearing, from the pleading that counsel for all parties have consented to the immediate consideration and grant of the petition and that a grant thereof will conduce to the orderly dispatch of the Commission's business; now therefore,

It is ordered, This 1st day of April 1960, that the aforesaid joint petition is granted, and that the dates for certain procedural steps are extended as follows: (1) Exchange of exhibits on nonengineering issues from April 12 to May 2, 1960; (2) Requests for additional information and notification of witnesses desired for cross-examination (nonengineering) from April 26 to May 10, 1960; and (3) Commencement of hearing upon engineering and nonengineering matters from April 4 (engineering) and May 10 (nonengineering) to May 17, 1960.

Released: April 4, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60–3189; Filed, Apr. 6, 1960; 8:50 a.m.]

[Docket Nos. 13442–13444; FCC 60M–577]

WASHINGTON STATE UNIVERSITY AND FIRST PRESBYTERIAN CHURCH OF SEATTLE, WASH.

Order Scheduling Hearing

In re applications of Washington State University, Pullman, Washington, for renewal of license of station KWSC (& Aux.), Docket No. 13442, File No. BR–58; for modification of license of station KWSC, Docket No. 13443, File No. BML–1789; the First Presbyterian Church of Seattle, Washington, Seattle, Washington, Docket No. 13444, File No. BR–64; for renewal of license of station KTW.

It is ordered, This 30th day of March 1960, that Walther W. Guenther will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on June 15, 1960, in Washington, D.C.

Released: April 1, 1960.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F.R. Doc. 60–3190; Filed, Apr. 6, 1960; 8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP60–16]

CITIES SERVICE GAS CO.

Notice of Application and Date of Hearing

MARCH 31, 1960.

Take notice that on January 25, 1960, Cities Service Gas Company (Applicant) filed in Docket CP60–16 an Application, pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the

[1] The pleading here considered requests the withdrawal of a Petition for Continuance filed March 29, 1960, on behalf of Radio Broadcasters, Inc. Continuances here granted encompass the relief there requested, thus rendering moot the matter presented in the March 29 petition.

construction and operation of field facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof in the general area of its existing transmission system from time to time during the calendar year 1960, all as more fully set forth in the Application which is on file with the Commission and open to public inspection.

The purpose of this budget-type proposal is to augment Applicant's ability to act with reasonable dispatch in contracting for and attaching to its pipeline system new supplies of natural gas in various producing areas generally coextensive with its system.

The total cost of all projects for which authorization is sought herein is not to exceed $500,000 with no single project to exceed a cost of $100,000.

This matter is one that should be disposed of as promptly as possible under the applicable Rules and Regulations and to that end:

Take further notice that, pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on May 3, 1960 at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such Application: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 22, 1960. Failure of any party to appear at and participate in the hearing shall be construed as a waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-3156; Filed, Apr. 6, 1960; 8:45 a.m.]

[Projects 2243, 2273]

PACIFIC NORTHWEST POWER CO. AND WASHINGTON PUBLIC POWER SUPPLY SYSTEM

Order Consolidating Proceedings, Fixing Hearing, and Prescribing Procedure

MARCH 30, 1960.

Pacific Northwest Power Company, Project No. 2243; and Washington Public Power Supply System, Project No. 2273.

Pacific Northwest Power Company on March 31, 1958, filed application under section 4(e) of the Federal Power Act (16 U.S.C. 797) for a license for proposed hydroelectric project works, including appurtenant facilities, designated the High Mountain Sheep Project No. 2243, on the Snake River at approximately river mile 188.9.

Washington Public Power Supply System on March 15, 1960, filed an application under section 4(e) of the Federal Power Act for a license for proposed hydroelectric project works, including appurtenant facilities, designated the Nez Perce Project No. 2273, on the Snake River at approximately river mile 186.

After a notice duly given of application for license for Project No. 2243, the Commission by order of February 1, 1960, fixed a public hearing on the matter for March 21, 1960, which by subsequent notice was postponed until April 4, 1960. Numerous interested parties have requested, and have been granted permission to participate in the proceedings on that application. Notice has been given with regard to the application for license for Project No. 2273.

It is appropriate in carrying out the provisions of the Federal Power Act that the proceedings on these conflicting applications for license be consolidated for the purpose of hearing. It is also appropriate and in the public interest that certain procedures be prescribed in advance of the hearing in these consolidated proceedings.

The procedures hereinafter prescribed are intended to eliminate any cause which might otherwise exist for a protracted hearing by requiring that the respective parties be prepared in advance of the hearing for the presentation of their direct case. This should result in serving the interests of those parties concerned with obtaining an orderly record, the saving of hearing time, and the associated costs and conveniences involved.

A major problem is one of meeting the convenience of witnesses who travel long distances, and of allowing adequate time to prepare for cross-examination of their technical testimony. Under procedure as prescribed a witness will not be required to attend the hearing prior to his appearance for cross-examination. Another, by way of illustration, is the time-consuming problem caused by questions calling for conclusions and opinions without having laid a proper foundation therefor, and any such questions and answers in prepared testimony, filed as hereinafter provided, will be subject to motion to strike from the prepared testimony as hereinafter provided.

Copies of the daily transcript may be obtained by the parties by making advance arrangements therefor with the official reporter.

The Commission orders:

(A) The proceedings on the applications for license for Projects Nos. 2243 and 2273 are consolidated for the purpose of a hearing.

(B) Pursuant to the authority contained and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly sections 4(e), 10(a), and 308 thereof, and the Commission's rules of practice and procedure, a public hearing shall be held on July 18, 1960 at 10:00 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C, respecting the matters involved and issues presented by the aforesaid applications for Projects Nos. 2243 and 2273, and the Commission's order of February 1, 1960 fixing a hearing for March 21, 1960, subsequently postponed to April 4, 1960, is hereby superseded.

(C) The following procedure is prescribed for the consolidated proceedings in Projects Nos. 2243 and 2273:

(1) The Applicants for Projects Nos. 2243 and 2273 (Applicants) shall file by May 16, 1960 with the Secretary of the Commission an original and ten copies of all of their testimony including qualifications of witnesses, and exhibits to be presented in their respective direct cases;

(2) All other parties, including the Commission's staff (other parties) shall file by June 16, 1960 with the Secretary, an original and ten copies of all of their respective direct testimony including qualifications of witnesses, and exhibits;

(3) All of the testimony, except exhibits, shall be in question and answer form;

(4) No exhibits, except those of which official notice may properly be taken, shall contain narrative material other than brief explanatory notes:

(5) All exhibits, except those of which official notice may properly be taken, shall contain brief and appropriate titles, and the exhibits shall be fully explained in the prepared direct testimony by the witness or witnesses sponsoring them;

(6) Each witness shall execute an affidavit adopting the testimony for which he assumes responsibility and an original and ten conformed copies of such affidavit shall be filed with his prepared testimony;

(7) Any party submitting more than one exhibit shall enclose a cover sheet listing the title of each exhibit in the sequence they are to be marked for identification;

(8) Two copies of all testimony including qualifications of witnesses and exhibits, shall be served on each party to this consolidated proceeding and a certificate of service thereof shall be attached to the original copy filed with the Secretary;

(9) Any motions to strike any part of the prepared testimony (prior to cross-examination), shall be filed by June 30, 1960, answers thereto shall be filed by July 11, 1960 and rulings on such motions will be made by the Examiner at the commencement of the hearing or prior thereto;

(10) Counsel for any party desiring to make an opening statement, but finding it inconvenient to attend the opening session, may mail a copy of his opening statement to the Examiner, and a list of counsel for the Party, for incorporation in the record as though read;

(11) Upon the commencement of the hearing and after appearances, opening statements, and other preliminary matters, the exhibits previously filed with the Secretary, as provided above, will be marked for identification in the sequence

directed by the Examiner, and thereafter the Examiner will require that the affidavits of the respective witnesses and their prepared direct testimony (together with the qualifications of the respective witnesses) previously filed with the Secretary as provided above, be copied into the record as though read, excepting any part or parts of the prepared testimony with respect to which he may have granted motion to strike; and

(12) The Examiner will specify the order of cross-examination for the information of the parties in making their respective witnesses available for cross-examination.

(D) Requests for extensions of time concerning the time for any filings specified herein shall be made in writing, served on all parties and filed with the Examiner (together with a certificate of service) at least ten days in advance of the dates specified herein (or as may have been extended), and any answers thereto shall be filed with the Examiner within three days after the request for extension.

(E) The Commission rules of practice and procedure shall apply in this consolidated proceeding except to the extent that they are modified or supplemented herein or to the extent that they are further modified or supplemented by the Examiner with the consent of the parties.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-3157; Filed, Apr. 6, 1960; 8:45 a.m.]

[Docket No. G-20079]

SOCONY MOBIL OIL CO., INC.

Order Providing for Hearing on and Suspension of Proposed Change in Rate

MARCH 31, 1960.

On March 4, 1960, Socony Mobil Oil Company, Inc. (Socony Mobil) tendered for filing a proposed change in rate for jurisdictional sales of natural gas to United Gas Pipe Line Company. The filing is designated as follows:

Description: Notice of Change, dated March 3, 1960.

Rate schedule designation: Supplement No. 1 to Supplement No. 4 to Socony Mobil's FPC Gas Rate Schedule No. 120.

Producing area: Pistol Ridge Field, Forrest and Pearl River Counties, Mississippi.

Effective date: April 24, 1960.[1]

Presently suspended rate: 24.0 cents per Mcf.

Proposed decreased rate: 23.0 cents per Mcf.

Pressure base: 15.025 psia.

The proposed decrease relates to a proposed increase filed earlier with the Commission and suspended in the above docket until April 24, 1960.[2] The increase was based on a redetermined rate change from 20.0 cents to 24.0 cents per Mcf, and the present proposed decrease of 1.0 cent per Mcf is based on a correction to that change.

The rate and charge contained in Supplement No. 1 to Supplement No. 4 to Socony Mobil's FPC Gas Rate Schedule No. 120 may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rate and charge contained in Supplement No. 1 to Supplement No. 4 to Socony Mobil's FPC Gas Rate Schedule No. 120, and that such supplement be suspended and the use thereof deferred as hereinafter provided.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 1 to Supplement No. 4 to Socony Mobil's FPC Gas Rate Schedule No. 120.

(B) Pending such hearing and decision thereon, Supplement No. 1 to Supplement No. 4 to Socony Mobil's FPC Gas Rate Schedule No. 120 is hereby suspended and the use thereof deferred until April 24, 1960, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before May 13, 1960.

By the Commission. Commissioner Connole not participating.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-3158; Filed, Apr. 6, 1960; 8:45 a.m.]

[1] The stated effective date is the date upon which Socony Mobil's proposed increase filed in Docket No. G-20079 and now sought to be decreased becomes effective.

[2] The proposed increase was suspended by order issued November 10, 1959 under the designation Supplement No. 4 to Socony Mobil's FPC Gas Rate Schedule No. 114. Rate Schedule No. 114 has now been redesignated as Socony Mobil's Rate Schedule No. 120.

[Docket No. CP60-30]

TEXAS GAS TRANSMISSION CORP.

Notice of Application and Date of Hearing

MARCH 31, 1960.

Take notice that on February 8, 1960, as amended February 10, 1960, Texas Gas Transmission Corporation (Applicant) filed in Docket No. CP60-30 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of field facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof in the general area of Applicant's existing transmission system from time to time during the 12-month period commencing May 30, 1960, at a total estimated cost not to exceed $3,000,000, with no single project to exceed a cost of $500,000, all as more fully set forth in the application, as amended, which is on file with the Commission and open to public inspection.

The purpose of this budget-type proposal is to augment Applicant's ability to act with reasonable dispatch in securing by contract and connecting to its pipeline system new supplies of gas in various producing areas generally coextensive with its pipeline system.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on May 3, 1960, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before April 22, 1960. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-3159; Filed, Apr. 6, 1960; 8:45 a.m.]

SECRETARY AND ACTING SECRETARY

Notice of Delegation of Final Authority

MARCH 31, 1960.

Pursuant to section 3 of the Administrative Procedure Act, notice is hereby given that the Commission has delegated final authority to the Secretary, and in his absence the Acting Secretary, to accept for filing rate schedules and supplements thereto, if any, submitted in compliance with conditions in certificates of public convenience and necessity, both temporary and permanent, issued under section 7 of the Natural Gas Act, when they meet the requirements prescribed by such certificates.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 60-3160; Filed, Apr. 6, 1960; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

BANCOHIO CORP.

Notice of Order on Request for Hearing

On February 15, 1960, the Board of Governors of the Federal Reserve System issued a Notice of Tentative Decision on the application of BancOhio Corporation, Columbus, Ohio, filed pursuant to section 3(a) of the Bank Holding Company Act of 1956, for prior approval of the acquisition of a minimum of 80 per cent of the 1,000 voting shares of The Hilliard Bank, Hilliards, Ohio. Subsequent to the issuance of the Board's Notice of Tentative Decision, Applicant filed a timely request for a hearing on this matter.

It appearing to the Board of Governors that it is appropriate in the interest of the public, as well as the Applicant, that the request for hearing be granted,

It is hereby ordered, That, pursuant to section 7(a) of the Board's Regulation Y (12 CFR 222.7(a)), promulgated under the Bank Holding Company Act of 1956, a public hearing with respect to this application be held commencing May 31, 1960, at 10 a.m., at the offices of the Federal Reserve Bank of Cleveland, 1455 East Sixth Street, Cleveland, Ohio, before a duly selected hearing officer, such hearing to be conducted in accordance with the Rules of Practice for Formal Hearings of the Board of Governors of the Federal Reserve System (12 CFR Part 263). The right is reserved to the Board or such hearing officer (a) to designate any other date or place for such hearing or any part thereof if deemed necessary or appropriate, and (b) to exclude from the hearing persons other than parties to the proceeding, counsel to such parties, or necessary witnesses, during such times as evidence is being given that is held to involve information of such a nature that disclosure thereof would not be in the public interest.

It is further ordered, That the following matters will be the subject of consideration at said hearing, without prejudice to the designation by the hearing officer of additional matters considered by him to be relevant:

1. The financial history and condition of the company and the bank concerned;
2. The prospects of said company and bank;
3. The character of their management;
4. The convenience, needs, and welfare of the communities and the area concerned;
5. Whether the effect of such acquisition would be to expand the size or extent of the bank holding company system involved beyond limits consistent with adequate and sound banking, the public interest and the preservation of competition in the field of banking.

It is further ordered, That any person desiring to give testimony or submit a statement in this proceeding should file with the Secretary of the Board on or before May 2, 1960, a written request relative thereto, setting forth the reasons for wishing to testify or submit a statement, the nature of the petitioner's interest in the proceeding, and a summary of the matters concerning which he wishes to testify or submit a statement. Such requests will be presented to the hearing officer for his determination, and persons submitting them will be notified of his decision.

Dated at Washington, D.C., this 1st day of April 1960.

[SEAL] MERRITT SHERMAN,
Secretary,

[F.R. Doc. 60-3161; Filed, Apr. 6, 1960; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1286]

AMERICAN LIFE FUND, INC.

Notice of Filing of Application

MARCH 31, 1960.

Notice is hereby given that American Life Fund, Inc. ("Fund"), a registered closed-end management investment company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting the Fund from the provisions of sections 15(a), 16(a) and 32(a) of the Act.

The application discloses that the Fund was organized on December 16, 1959 under the laws of the state of Delaware. The Fund registered under the Act on February 17, 1960 and has filed a registration statement under the Securities Act of 1933 covering 1,250,000 shares of its capital stock.

Prior to beginning operation as an investment company, the Fund proposes to enter into an investment advisory contract with Insurance Securities Incorporated. The fiscal year of the Fund ends on September 30, 1960, and the date of its first annual meeting of stockholders is fixed by its by-laws as December 6, 1960. Since the Fund will have no stockholders prior to the public offering, it is proposed to take appropriate stockholder action at the first annual meeting of stockholders with respect to an investment advisory contract, the selection of the Fund's independent public accountants, and the election of directors.

The Fund requests an order of the Commission under section 6(c) of the Act exempting the Fund from the provisions of sections 15(a), 16(a) and 32(a) of the Act so that the Fund may operate for a limited period of time without stockholder approval of the investment advisory contract, without stockholder election of directors, and without stockholder approval of the selection of the independent public accountants as required, respectively, by those Sections of the Act, until stockholder approval can be obtained with respect to these matters at the first annual meeting of stockholders scheduled to be held on December 6, 1960.

Section 6(c) of the Act authorizes the Commission, by order upon application, to exempt, conditionally or unconditionally, any transaction or any class of transactions from any provisions of the Act or of any rule or regulation thereunder, if and to the extent that the Commission finds such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 13, 1960 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 60-3170; Filed, Apr. 6, 1960; 8:47 a.m.]

[File No. 1-4015]

CONSOLIDATED DEVELOPMENT CORP.

Order Summarily Suspending Trading

APRIL 1, 1960.

In the matter of trading on the American Stock Exchange in the common stock, par value 20 cents per share of

Consolidated Development Corporation (formerly known as Consolidated Cuban Petroleum Corporation), File No. 1-4015.

The common stock, par value 20 cents per share of Consolidated Development Corporation (formerly known as Consolidated Cuban Petroleum Corporation), being listed and registered on the American Stock Exchange, a national securities exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on such Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934 that trading in said security on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, April 2, 1960 to April 11, 1960, both dates inclusive.

By the Commision.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 60-3171; Filed, Apr. 6, 1960; 8:47 a.m.]

[File No. 811-871]

THE THIRD'S SMALL BUSINESS INVESTMENT CO.

Notice of Application for Order Declaring That Company Has Ceased To Be an Investment Company

MARCH 31, 1960.

Notice is hereby given that The Third's Small Business Investment Company ("Applicant"), a Tennessee corporation and a closed-end nondiversified investment company registered under the Investment Company Act of 1940 ("Act"), which is also a small business investment company licensed as such under the Small Business Investment Act of 1958 ("SBIA"), has filed an application pursuant to section 8(f) of the Act for an order declaring that Applicant has ceased to be an investment company as defined in the Act, by virtue of the exception from such definition contained in section 3(c)(1) and Rules 3c-1 and 3c-2 promulgated thereunder.

Section 3(c)(1) of the Act excepts from the definition of an investment company, any issuer (i) which is not making and does not propose to make a public offering of its securities and (ii) whose outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons, and further provides, in essence, that for the purpose of calculating the number of such beneficial owners, there shall be deemed to be included all the holders of securities of any company which holds ten per centum or more of the voting securities of such issuer.

Rule 3c-1 provides that an offering of capital stock by a small business investment company licensed under the SBIA, is not deemed to involve a public offering where such offer or sale is made in connection with the purchase of debenture bonds from a small business concern pursuant to the requirements of the SBIA, the amount of stock involved is the minimum required by the SBIA and the regulations thereunder in connection with the particular transaction, and the stock is acquired by the small business concern for investment and not with a view to its distribution.

Rule 3c-2, adopted since Applicant registered, so far as here relevant, deems as one beneficial owner of a licensed company, any company holding in excess of ten per centum of the voting securities of such licensed company, provided that the value of all securities of licensed companies which such company holds does not exceed five per centum of the value of the holder's total assets.

Applicant represents that its authorized capital stock amounts to 50,000 shares of $10 par value common stock, of which 16,000 shares are issued and outstanding. It is further represented that 12,000 of such shares are beneficially owned by Third National Bank in Nashville, and that the remaining 4,000 shares are beneficially owned by Third National Company. It is further represented that neither shareholder owns any other securities of any small business investment company, and that their holdings of Applicant's common stock do not exceed in value five per centum of the respective values of their total assets. Applicant does not propose to make a public offering of any of its securities.

Section 8(f) of the Act provides, in relevant part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is hereby given that any interested person may, not later than April 13, 1960, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 60-3172; Filed, Apr. 6, 1960; 8:48 a.m.]

OFFICE OF CIVIL AND DEFENSE MOBILIZATION

CARLTON S. DARGUSCH

Appointee's Statement of Business Interests

The following statement lists the names of concerns required by subsection 710(b)(6) of the Defense Production Act of 1950, as amended.

The following are the corporations in which I was an officer or director within sixty days preceding my appointment: The Clark Grave Vault Company, The Ohio Tuberculosis & Health Association, The Columbus Town Meeting, The Ohio State University Research Foundation, all of Columbus, Ohio; Henrite Products Corporation, Ironton, Ohio.

I own stocks in the following companies: The Ohio National Bank, The Clark Grave Vault Company, Henrite Products Corporation, The Sunday Creek Coal Company, The Granville Inn and Golf Course, Inc.

I am a member of the law firm of Dargusch, Saxbe and Dargusch, which represents a substantial number of clients, largely on an annual retainer basis.

This amends statement published September 24, 1959 (24 F.R. 7710).

Dated: March 5, 1960.

CARLTON S. DARGUSCH.

[F.R. Doc. 60-3152; Filed, Apr. 6, 1960; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice No. 292]

MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 4, 1960.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by

petitioners must be specified in their petitions with particularity.

No. MC–FC 63012. By order of March 31, 1960, the Transfer Board approved the transfer to Calvalcade Trucking, Inc., Trenton, New Jersey, of Certificates Nos. MC 84449, MC 84449 Sub 1 and MC 84449 Sub 2, issued March 21, 1941, October 15, 1940 and October 15, 1940, respectively, to Jacob Levin, Philadelphia, Pennsylvania, authorizing the transportation of utility cabinets and tinware, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other points in Connecticut, Delaware, Maryland, New Jersey, New York, Virginia and the District of Columbia; new furniture and furniture frames, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, Wilmington, Del., Baltimore, Md., Washington, D.C., New York, N.Y., and points in Connecticut and Virginia; between points in Philadelphia; paper-wrapped, uncrated, steel utility cabinets, over irregular routes, from Philadelphia, Pa., to points in Vermont, Rhode Island, West Virginia, and North Carolina; and uncrated steel utility cabinets, over irregular routes, from Philadelphia, Pa., to points in Massachusetts. Jacob Polin, P.O. Box 317, Bala-Cynwyd, Pa., for applicants.

No. MC–FC 63019. By order of March 31, 1960, the Transfer Board approved the transfer to H. L. Leonard Moving and Storage Co., Inc., Detroit, Mich., of Certificate in No. MC 21357 issued March 13, 1953, to Daniel J. Leonard, doing business as H. L. Leonard Moving Co., Detroit, Mich., authorizing the transportation of: Household goods, as defined by the Commission, over irregular routes, between points in Michigan within 125 miles of Detroit, Mich., including Detroit, on the one hand, and, on the other, points in Indiana, Illinois, Iowa, Kentucky, Maryland, Massachusetts, Minnesota, New Jersey, New York, Ohio, Pennsylvania, Wisconsin, West Virginia, and Michigan points of entry on the International Boundary Line between the United States and the Dominion of Canada. Harry M. Smith, Attorney at Law, 3066 Penobscot Building, Detroit, Mich., for applicants.

No. MC–FC 63022. By order of March 31, 1960, the Transfer Board approved the transfer to RKO Transport Service, Inc., Bartonville, Ill., of Permit No. MC 115836 Sub 1 issued by the Commission November 24, 1958, in the name of Rex Klump Oil Company, a Corporation, doing business as R. K. O. Transport service, Bartonville, Ill., authorizing the transportation of petroleum products, in bulk, in tank vehicles, from the site of the Clark Oil and Refining Corp., at Tuscarora, Ill., to Davenport and Keokuk, Iowa. Raymond L. Terrell, Myers Building, Springfield, Ill., for applicants.

No. MC–FC 63031. By order of March 31, 1960, the Transfer Board approved the transfer to Savin Hill Movers, Inc., Quincy, Mass., of Certificate No. MC 41510, issued July 22, 1958, to Alice B. Hane, doing business as Red & White Movers and Trucking Co., Dorchester, Mass., authorizing the transportation of: Household goods between Lynn, Mass., and points in Massachusetts within 10 miles of Lynn, on the one hand, and, on the other, points in Massachusetts, New Hampshire, Maine, Rhode Island, Connecticut, and New York. Francis E. Barrett, Jr., Attorney, 7 Water Street, Boston 9, Mass., for applicants.

No. MC–FC 63058. By order of March 31, 1960, the Transfer Board approved the transfer to H. M. Skinner & Sons, Inc., New Bethlehem, Pa., of Certificates Nos. MC 610 and MC 610 Sub 1, issued April 28, 1941 and January 24, 1942, respectively, in the name of J. M. Skinner and H. W. Skinner, a partnership, doing business as H. M. Skinner & Sons, New Bethlehem, Pa., authorizing the transportation of general commodities, excluding household goods, commodities in bulk, and various specified commodities, over a regular route, between McKeesport, Pa., and Buffalo, N.Y.; household goods over irregular routes, between points in that part of Pennsylvania on and west of U.S. Highway 219, on the one hand, and, on the other, points in New York; and, brick, firebrick, refractory products, ground fire clay, and structural tile, over irregular routes, between New Bethlehem, Pa., and points within 20 miles of New Bethlehem, except Templeton, Meredith, Cowanshannoc and Brookville, Pa., on the one hand, and, on the other, points in Maryland, New York, Ohio, and West Virginia, traversing New Jersey for operating convenience. H. Ray Pope, Jr., 10 Grant Street, Clarion, Pa., for applicants.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 60–3178; Filed, Apr. 6, 1960; 8:49 a.m.]

CUMULATIVE CODIFICATION GUIDE—APRIL

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during April.